

1293

No. 3691

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United States
Circuit Court of Appeals
For the Ninth Circuit.

Transcript of Record.

(IN TWO VOLUMES.)

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Appellant,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Appellee.

VOLUME II.

(Pages 385 to 714, Inclusive.)

Upon Appeal from the United States District Court
for the Eastern District of Washington,
Northern Division.

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F. D. MONCKTON,

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(Testimony of Arthur Lakes, Jr.)

Q. Part of it is due to the throw.

A. I testified that it was partially breccia.

Q. Now, then, coming back again to the surface, if, as a matter of fact, there would be a displacement on the level of only 25 feet, you ought to find quartz on the west side [363] of the fault in Trench 558, shouldn't you?

A. You do find a little quartz right here.

Q. Well, why don't you mark it? Where?

A. Near 558.

Q. On the west side of the fault?

A. To the west side of that.

Q. Let me come back to the Black Tail vein. What is the apparent displacement of that vein on the level?

A. As I measure it, the distance between the two segments of the vein is about 50 feet.

Q. Whereabouts did you make that measurement? A. I made it here on the model.

Q. That is on the—

A. Horizontally matching up the two segments of the vein.

Q. But you didn't find that faulted segment 50 feet away on the west side of the fault in the trench 558, did you? A. I didn't drive that tunnel.

Q. It is open. Anyone can look at it, can't they?

A. Yes.

Q. Where do you find it 50 feet away from the point where once before you said it was faulted on No. 2 level?

A. What vein are you speaking of now?

Q. The Black Tail vein. Let's keep one at a time.

(Testimony of Arthur Lakes, Jr.)

You said it was faulted near the sand winze.

A. There is the Black Tail vein right there.

Q. Didn't you tell me that there was a displacement of—how many feet?

A. Following the fault, but I explained to you at the time that the relation of the two segments was 45 feet. [364]

Q. Each time when we come to the apparent displacement you go back to the displacement along the plane of the fault. What is the plane of the fault there? A. Right there?

Q. Along the plane of that fault, what is the apparent displacement? A. About 100 feet.

Q. Along the plane of the fault, what would be the apparent displacement in 558—one hundred feet? A. Yes.

Q. Now, then, to make it clear again, the apparent displacement along the plane of that fault, of the red vein, is 25 feet; and of the yellow vein 100 feet. Is that correct? A. No.

Q. Tell me what is, then.

A. The apparent displacement is 100 feet along the plane of the fault for the Lone Pine No. 2 vein. The throw is about 25 feet.

Q. The apparent displacement is 100 feet on the level. A. About 100 feet.

Q. Now, then, we will come back again to the composite map. Show his Honor where there is a throw, an apparent throw along the plane of that fault, of that red vein, of 100 feet.

A. I don't show a throw. I said about 25 feet.

(Testimony of Arthur Lakes, Jr.)

Q. Along the plane of the fault.

A. Along the plane of the fault, about 100 feet.

Q. And do you want his Honor to understand for 100 feet along there, what you have marked in red, on the west side [365] of that fault, that that is all drag material.

A. It might be that the Lone Pine comes—the Lone Pine vein comes in here. I don't know. A little further work would determine that, but I got drag material through to about 231 plus 10.

Q. How many feet of drag material did you get along there? A. Oh, it is not crosscut.

Q. I mean in length.

A. There is some brecciated quartz at Station 151-C and 331 and at 331 plus 10. Beyond there I didn't take samples.

Q. Now, you know very well whether these bands of quartz that I referred you to before, that are near the foot of this little working 331½, that you found here, from there on, and up in the left, from there on—

A. These are not brecciated.

Q. Those are not brecciated?

A. No, but how far back from the gouge, I don't know.

Q. Now, the throw of the yellow vein along the plane of the fault is how much?

A. About 40 feet.

Q. Along the plane of the fault, the apparent displacement is 40 feet, isn't it?

A. Are you speaking of the displacement of the two segments?

(Testimony of Arthur Lakes, Jr.)

Q. Yes, sir. A. About 40 to 45 feet.

Q. That is as the Court would look at it on a map? [366]

A. If you take one segment of the vein and the other, this distance in here would be about 40 feet.

Q. Along the plane?

A. Along the plane of the fault would be in excess of that.

Q. About how much? A. About 90 or 100 feet.

Q. Now, come over here and see what is the matter with Mr. Burch's model 31. He shows more displacement of the yellow, than he does the red one.

A. Mr. Burch introduced that.

Q. You made it. A. I made it.

Q. Now, is it correct, or isn't it, in your judgment?

A. It is correct as near as the straight lines—which we had to saw—would make it, with the possible exception that this Lone Pine No. 2 at the southwest would possibly be more in this direction, with a little bit larger displacement, as it has apparently at the points of intersection of the red—the points of intersection there with the yellow, would be pretty near the same on both sides.

Q. But it is not so shown on the model.

A. On the model, you cannot see the faults and the veins in the curved lines that they take.

Q. You could put them on so that one does not appear to have half as much again displacement as the other, can't you?

(No answer.) [367]

Q. As a matter of fact, that is purely diagram-

(Testimony of Arthur Lakes, Jr.)

atical, and does not represent the actual condition on the ground. A. I didn't introduce it.

Q. You see it. I asked you if it is not purely diagrammatical and does not represent the actual conditions on the ground.

A. It represents them as nearly as possible under the conditions under which it was made.

Q. Now, I want to ask you, what is the distance between the quartz which you have marked yellow in 558, on the east side of that blue streak and the quartz which you have marked red?

A. About 18 feet.

Q. Isn't it a fact that on the east side of that trench, the Court can follow continuous quartz between these two?

A. If he can follow continuous quartz, on that strike and that dip, he can do more than I can.

Q. Isn't it true that you can follow continuous quartz in Trench 558 from its mouth, clear through to the open stope at the other end?

A. There is a break in here.

Q. Of about 8 feet? A. No.

Q. How many feet?

A. I testified that there was a little drag or brecciated ore along north of this yellow line. I testified to that.

Q. Well, how far north? A. About 8 feet.

Q. Eight feet. [368] A. Yes.

Q. How many feet is there in there that he cannot follow quartz? A. Between 8 and 10 feet.

Q. Between 8 and 10 feet within that tunnel 558, you say you cannot follow quartz?

(Testimony of Arthur Lakes, Jr.)

A. Cannot follow quartz with the strike of either one of the approximate—approximate with either one of these veins.

Q. Let's leave that out. Isn't it true that he can follow quartz? Now, we will leave out the strike and dip and so forth—follow continuous quartz in that trench from its face to its mouth.

A. I couldn't.

Q. You couldn't? A. No, sir.

Q. And there is a difference of ten feet in which you say there is no quartz?

A. Approximately 10 feet.

Q. Approximately 10 feet there? A. Yes.

Q. About this work on 331½. You had charge of the driving of that work, didn't you? A. Yes.

Q. You know Mr. Bailey, don't you? A. Yes.

Q. Didn't you have a conversation with Mr. Bailey at the mine in which you said that you didn't think it was good business to continue that work on 331½; that the ore [369] at 331 you thought would cut off or would swing around to the southwest?

A. I did not.

Q. And that you would rather not run the drift that some of the others wanted you to to?

A. I did not.

Q. Didn't you say to Mr. Wethered—you know Mr. Roy Wethered? A. Yes.

Q. That this drift was not run with your approval because you thought it would help us by showing the quartz actually swung around to the—

A. I did not. I said to Mr. Wethered—or the only expression that I made about this drift that if

(Testimony of Arthur Lakes, Jr.)

the condition of the ground had been different, I would have preferred to have gone in more on a straight line.

Redirect Examination.

(By Mr. COLBY.)

Q. Is the quartz plainly apparent along the right-hand side of this drift in the vicinity of point 331?

A. Yes.

Q. So that where this drift was turned off to the left, and to the south, the quartz was left still on the right-hand side going in?

A. It was left at the point marked on this map at 331½, or in that immediate vicinity.

Q. And that work was done by the plaintiff, was it not? A. Yes. [370]

Q. Now, what was the reason that you did not connect this work through from this incline to this little stub cutting out from 331½?

A. The time was too short.

Q. What time did you have to do that?

A. Less than two weeks.

Q. How long would it take?

A. It would take at least ten days of hard work.

Mr. GRAY.—We are perfectly willing that that time should be taken and the work done and your Honor observe it.

Mr. COLBY.—We will be very glad to do it, if your Honor wishes it done.

Mr. GRAY.—Any work that is going to assist—

The COURT.—It is a very important connection for the purpose of this trial, it seems to me.

(Testimony of Arthur Lakes, Jr.)

Mr. COLBY.—We asked to have this work done, if you Honor pleases, about a month prior to the trial.

The COURT.—I will determine that question later.

Mr. COLBY.—And by the time that we got permission, it was within a couple of weeks of the trial, and rather than ask for a continuance, in view of the fact that all our witnesses were ready to come, we decided to go ahead with the trial in spite of the fact that we had not at that time connected that through.

Q. Now, coming over to the other map. Mr. Gray asked you why it was that you didn't have yellow showing—that is a continuation of the Black Tail, showing on the other side of the fault at the surface here. Is it not a [371] fact that you have immediately underground there an exposure of what you consider the probable extension of the Black Tail? A. We have.

Q. Where is that?

A. At Station 64-C, underground.

Q. That would be in this vicinity?

A. In the vicinity here.

Q. How far is that below the surface—a few feet only, is it not?

A. About 30 feet—35 feet.

Q. About 35 feet underground?

A. I should judge so.

Q. So you actually have an exposure of the Black Tail vein on the left or the west side of the fault?

A. Yes.

(Testimony of Arthur Lakes, Jr.)

Q. In that immediate vicinity? A. Yes.

Q. Now, when he was asking you about the throw of the fault, or the apparent misplacement, and the measurement between the different sides of the different parts of the vein on the opposite side of the fault, on a horizontal plane, did you take into consideration in your answer the effect that would be created by a vein of considerable width?

Mr. GRAY.—This man is an expert and I have no objection to your asking him what he took into consideration, but I don't think you ought to suggest the answer.

Mr. COLBY.—I want to get this thing straight.
[372]

Mr. GRAY.—Yes, I do, too, but I would rather he would testify to it than you.

A. I didn't get your question.

Q. I say that in this horizontal displacement, that Mr. Gray was asking you about, on the opposite sides of the fault, did you take into consideration the result of the displacement of a vein of great width?

A. In measuring, measuring from this point to this point?

Q. What points are those?

A. From a point just north of 151-C on the composite map the point labeled on defendant's map about 334½.

Q. Is it not a fact that in these measurements, you were taking a theoretical vein of no width?

A. I was.

(Testimony of Arthur Lakes, Jr.)

Recross-examination.

(By Mr. GRAY.)

Q. Now, about this so-called Black Tail vein on the surface, you say— A. Not on the surface.

Q. That is not? A. No, sir.

Q. You say it is just a little below the surface at 64-C? A. Yes, sir.

Q. As a matter of fact, this surface is open to very careful examination? The wash is pretty well off of it?

A. The wash is quite heavy over through here. [373]

Q. About where this old discovery vein is and down in that direction.

A. The wash is heavy, very heavy.

Q. You can observe the outcropping of these veins?

A. No, not from here. From this point, where the cliff breaks off down to the side-line, it is not easy to see outcroppings, with a possible exception of a little point right down in the vicinity of the railroad.

Q. Would this Black Tail vein come through there as you have it delineated? Couldn't come any place else, could it?

A. It would approximately outcrop about here.

Q. Then it would go through this long trench of yours and you didn't find it?

A. I didn't say it would go through that long trench.

(Testimony of Charles P. Robbins.)

Q. You didn't find it there?

A. I didn't find it, no.

Witness excused. [374]

Testimony of Charles P. Robbins, for Defendant.

CHARLES P. ROBBINS, called and sworn as a witness on behalf of the defendant, testified as follows:

Direct Examination.

(By Mr. COLBY.)

Q. What is your name? Where do you live?

A. Charles P. Robbins; Spokane.

Q. What is your relation to the defendant company? A. President.

Q. Are you familiar with the property here in dispute? A. Yes, sir.

Q. How long have you been familiar with that?

A. Since its location almost; since September, 1896, I first saw it.

Q. You were one of the original locators that appeared upon the location? A. Yes, sir.

Q. But were not out on the property?

A. No, I was not present when it was located.

Q. And your first visit to the property was at what time?

A. About the middle or latter end of September, 1896.

Q. Who did you go out with at that time?

A. Mr. Creasor.

Q. And who was Mr. Creasor?

A. Mr. Creasor was the locator.

(Testimony of Charles P. Robbins.)

Q. He was one of the locators?

A. One of the locators. Mr. James Clark and myself grubstaked Ryan and Creasor, the prospect on the reservation. [375]

Q. And the 4 of you appeared on the location notice? A. Yes, sir.

Q. When you went out there with Mr. Creasor, what was the object of going out in September of 1896?

A. We had a proposition from Mr. Patrick Clark to take an option on the property. Mr. Creasor was sick of typhoid. I was working for Mr. Clark at the War Eagle at the time and he told me to get a notary and go into Republic, that he was afraid Mr. Creasor was going to die and that he should get his signature to this option that he was to take.

Q. Did you visit the property at that time with Mr. Creasor?

A. Yes, sir; I found him much better, and he took me up to the property.

Q. He had recovered sufficiently for you to go upon the property? A. Yes, sir.

Q. Did you go upon the Lone Pine claim at that time? A. Yes, sir.

Q. And did Mr. Creasor point out the corners to you?

A. He pointed the direction. I did not go to each corner.

Q. Did he point out the discovery to you?

A. We went up to the discovery.

Q. Where is that discovery? Is it what is shown

(Testimony of Charles P. Robbins.)

on the various maps and the model as the discovery point? [376] A. Yes, sir.

The COURT.—What is the date?

Mr. COLBY.—September of 1896.

The COURT.—When was the location?

Mr. COLBY.—The location was in February of 1896.

Mr. GRAY.—I don't think it is material.

Mr. COLBY.—Yes, I think it is quite material.

Mr. GRAY.—It is self-serving for one locator to tell what another one did. Well, go ahead, you have Mr. Creasor here anyhow.

Mr. COLBY.—Mr. Creasor is going to testify.

Q. Did you ever do any work on this property, or was work done under your direction?

A. Yes, sir.

Q. About when did you start work?

A. Why, work was started in October of 1896.

Q. And how long did you remain interested in the property?

A. I am still interested, and have been all the time.

Q. I mean in the Lone Pine.

A. Oh, until 1909, sold it to Mr. Harper.

Q. As I understand it, at the same time you located the Last Chance, that is, the same locators?

A. Yes.

Q. About the same time. That shows in the pleadings, a day later. There is no controversy over that, as I understand it. How many years was that that you were interested in the Lone Pine? [377]

(Testimony of Charles P. Robbins.)

A. Well, from 1896 to 1909.

Q. That is something over 13 years? A. Yes.

Q. And during that period of time did you carry on operations on the property?

A. Yes, sir; at different periods.

Q. Did you visit the property frequently?

A. Yes, sir.

Q. And where did you live most of that time?

A. I moved to Republic in 1897 to take charge of the Republic mine.

Q. How long were you there with the Republic Mine?

A. Well, I was there that fall, and went to California that winter, and came back in the spring, and was at Republic for a few months, and then I resigned and moved to Spokane.

Q. You kept in touch with the Lone Pine during that time, and the work that was being done?

A. Yes, sir. I hadn't anything to do with the management of the Lone Pine until November of 1900. I was elected President on November 12, 1900, and have continued since.

Q. What was the first work on the Lone Pine looking toward mining operations?

A. The driving of adit No. 1 as far as the No. 2 vein.

Q. That is what is commonly referred to as the No. 1 tunnel? A. Yes, sir. [378]

Q. How long did you continue that tunnel in?

A. We continued the tunnel until we crosscut the

(Testimony of Charles P. Robbins.)

vein, and it was very low grade at that time, \$5 ore, and we quit.

Q. Point that out to his Honor on the model.

A. That is this vein here.

Q. That is the one that has been referred to as the No. 2 vein, is it not? A. Yes.

Q. And you say the values that you found there were low grade?

A. Oh, as I remember it, between \$4.50 and \$5.00. This work was done before it was incorporated, you understand, as partners. Mr. Patrick Clark bought a quarter interest from Ryan and joined us in the operation of the mine, he paying a quarter of the expense up to that period.

Q. And later on you incorporated a company and turned it over to the company; is that a fact?

A. Yes, sir; but not the present company.

Q. Another company. A. Yes.

Q. Did you continue driving that tunnel ahead?

A. No, we stopped work there for a time.

Q. Well, after that was that tunnel driven under your direction?

A. No, Mr. Creasor drove this tunnel. We were putting up the money. We were living in Rossland and sent him our proportion of the money. [379]

Q. How far ahead was that tunnel driven finally before you stopped it, when you were connected with the property?

A. I have always been connected, but it was driven—it crosscut the vein when we stopped, and I don't think any more work was done on that

(Testimony of Charles P. Robbins.)

tunnel until after we incorporated as the Lone Pine Consolidated.

Q. You were interested in the Lone Pine Consolidated? A. Yes.

Q. You continued as the Lone Pine Consolidated in driving the first tunnel?

A. The Lone Pine Consolidated under Mr. Clark's management.

Q. And you were there?

A. I was in Republic; yes.

Q. How far out was it driven under that management?

A. This tunnel was driven right to where it intersects No. 4 vein and drifted on No. 4 vein each way to its present face.

The COURT.—About what date was that?

A. That would be between 1897 and August, 1900.

Q. During those three years.

A. Mr. Clark resigned in 1890, and then I was elected President and have been continuously since.

Q. And did you carry on any mining operations on the No. 4 vein? [380]

A. Yes, sir; I stoped these here.

Q. And roughly, how many tons were produced under your management from the No. 4 vein?

A. Well, I have got the production of the No. 4 vein partly under my management and partly when it was under lease to Harper. I can tell you the amount that was in that body, and then what came below, 3,050 tons of the value of \$125,000 gross smelter value.

(Testimony of Charles P. Robbins.)

Q. Your operations here on the No. 2 vein were carried on in what manner from that tunnel?

A. You mean from the time I took it?

Q. Yes.

A. I commenced to stope this ore out, and in—

Q. In just a rough way can you tell how much stoping had been carried on when you operated your company? A. I have a map of it.

Q. We don't care to go into that.

A. Well, this stope is entirely west of the No. 1 tunnel, and it came up to within about 40 feet of the surface here, and then it dropped down and we followed the better ore. We came down here and then I ran this drift in here about 10 feet and took out some ore there and stoped for probably 20 feet. Then a little stope probably 15 feet high above the level here, and about 18 inches to 2 feet wide.

Q. That was the No. 1 level?

A. That was the No. 1 level.

Q. Could you tell approximately the tonnage that was taken out of the No. 2 vein? [381]

A. On the No. 1 level?

Q. Yes. A. Roughly, 5,000 tons.

Q. Could you give an approximation of its value?

A. Why, its assay value was about \$17 a ton. I can give you the actual figures.

Q. When did you go to work on the Last Chance claim actively? A. September 15, 1916.

Q. As I understand it, the Last Chance was also

(Testimony of Charles P. Robbins.)

located by yourself, Mr. Creasor, Mr. Clark and Mr. Ryan? A. Yes, sir.

Q. And that claim was comparatively idle?

A. Yes, sir; there has never been any development work except this crosscut that was run from No. 1 tunnel running southerly. That was done by Mr. Clark. That was the only work done on the Last Chance, with the exception of a few surface cuts.

Q. That is the crosscut running out at 166-C?

A. Yes. It shows across the line here. [382]

Q. When was that work done?

A. Which, this?

Q. No, this work that crosses the line?

A. That was done by Mr. Clark during the period that he had this in 1899.

Q. Prior to 1900? A. Yes, sir.

Q. That was 20 years ago? A. Yes, sir.

Q. Now, this Last Chance claim was owned all that time by the same company that originally owned the Lone Pine? A. Yes, sir.

Q. And the company was largely composed of the original locators, that is the original locators had interests in that company? A. Yes, sir.

Q. And they are still interested in the Last Chance? A. Yes, sir.

Q. Now, you say they began the development in September of 1916?

A. Yes, sir; September 15th.

Q. And what did you do in the way of development?

(Testimony of Charles P. Robbins.)

A. I commenced to grade for the boiler and compressor preparatory to sinking the shaft. We got that work completed and the machinery installed and commenced sinking the shaft November 8th or 9th. [383]

Q. When did you reach the vein?

A. About April, 1917.

Q. (The COURT.) What was the distance approximately?

A. Five hundred feet. We sunk 30 feet below the level for a sump. We intersected the vein at about 488 or 489 feet, I should say. We passed through the vein in this corner at the 500 point.

Mr. COLBY.—Q. When was it that you were first notified by any representative of the plaintiff that they had a claim on this ore that you were mining? A. In April, 1919.

Q. That would be nearly 2 years after you intersected the vein. That was the date that you intersected the vein?

A. I can't get it exact, but it was during April of 1917.

Q. When you first visited the Lone Pine claim here was there any exposure of a north and south vein running through the Lone Pine property to your knowledge? A. No, sir; there was not.

Q. And when did you first ever see any exposure of a north-south vein on that property?

A. Why, I cannot be sure as to the date, but I think it was about 1900.

Q. Where was that exposure made?

(Testimony of Charles P. Robbins.)

A. About this point. There is an open cut there that exposed the vein about $21\frac{1}{2}$ feet wide. It is in that proximity there, just south of this little [384] raise that comes through. It would be a little south of a point 537. Have you made any investigation of this discovery vein, Mr. Robbins?

A. Yes, sir; I have examined it.

Q. And what do you find there running through the discovery point?

A. Right opposite the stake, what we call the discovery point, it run about 17 inches of quartz.

Q. Now, passing down to the west, you find quartz, do you not, on the west side-line?

A. Yes, sir.

Q. How was it passing down to the east?

A. There is a little interruption at a couple of points, two points, I think.

Q. Is there any doubt in your mind but what those veins there continue across the side-line?

A. No, sir.

Q. What is the general relation of all those veins that you find, cross-veins, in the Lone Pine?

A. Northeasterly and southwesterly.

Q. And they are approximately parallel, are they not? A. Approximately parallel, yes, sir.

Q. Now, you have also examined these workings since this litigation started, have you not, from time to time? A. Yes, sir.

Q. And before you sold the property you had [385] considerable familiarity with the conditions that were exposed in those workings at that time?

(Testimony of Charles P. Robbins.)

A. I had.

Q. I will ask you if you will describe in a general way on this model what you think of the exposures there on the number 2 Lone Pine, and any extension of it in any direction; just tell the Court in your own way what you think about it?

The COURT.—In what respect?

Mr. COLBY.—As to the exposures there, I call your attention particularly to these trenches there crossing the side-line of the Lone Pine claim?

A. There is on what we call the railroad cut here, there is a good strong exposure of quartz, a good vein, having approximately the same strike and dip of the No. 2 vein, and I believe that to be a continuation of it.

Q. What is the width of the quartz shown here?

A. It varies; 3 feet; and in one place it is fully 6 feet. There may be a little inclusion of country rock at that point.

Q. Is that frequent, that you find country rock?

A. We find it all through the stopes of the Last Chance.

Q. It is characteristic of that country, is it not?

A. Yes, sir.

Mr. GRAY.—What is that, the country rock?

[386]

Mr. COLBY.—The inclusions of country rock and vein material? A. Yes, sir.

Q. Are you familiar with the stoping that was done here, that was done under your management?

A. Part of it was done under my management

(Testimony of Charles P. Robbins.)

and part of it was done since I ceased to have anything to do with it. I do not know whether it was done by Harper or done by the Northport people.

Q. What is your idea of that occurrence in there?

A. When I first found this vein coming in here, I thought I had discovered a new north and south vein, and we stoped a few cars of ore out and later on some leasers, I think it was, looked for it on No. 2. When we got down to it we could not find it, but we did find a stringer coming up on the hanging-wall here, which was comparatively good ore which afterwards has been stoped out, but not during my management. Now, whether this continues or whether that turns, I won't say. It apparently does here, but this may continue on here. There is a streak of ore running this way at this point.

Q. Running which direction?

A. That would be northeasterly, a little more easterly than the main vein. Whether that comes back in here or not I don't know.

Q. Did it have the appearance to you of a spur for a main vein? A. Yes, sir. [387]

Q. With the country rock included between the spur and the main vein?

A. Yes, sir; there is country rock between.

Q. Did you take any assays of this vein passing through the discovery and in that vicinity and in that direction? A. Yes, sir.

Q. Tell the Court where you took those assays?

(Testimony of Charles P. Robbins.)

A. Beginning at the discovery cut I took—do you want the exact distance?

Q. Just approximately?

A. Thirty-one feet. Well, I went west 31 feet practically; in the east side of the discovery cut every six feet, and 28 feet east of that, and went right at the nearest point of the discovery post, $3\frac{1}{2}$ feet from the east side of the cut.

Q. Did you have those samples assayed?

A. Yes, sir.

Q. Have you the assay returns? A. Yes, sir.

Q. I presume that we will not be called upon to produce the assay. Have you got a little plat that shows the position, the position of these samples or can you identify them on the map?

A. I have no plat, but I can tell you where they were taken.

Mr. COLBY.—In the interest of expediency, I will ask Mr. Robbins in connection with some of these [388] surveyors, to put these numbers on a plat. You can do that between now and tomorrow. We will offer this; they are values of the returns from these various samples taken in the vicinity of the discovery going each way, running from two and a half to seven and a half dollars, and we will be asked that this be marked the next exhibit number in order.

(The said assays sheet return was marked Defendant's Exhibit No. 33.)

Mr. COLBY.—I think that is all of the direct examination.

(Testimony of Charles P. Robbins.)

Cross-examination.

(By Mr. GRAY.)

Q. I want to get an idea of how familiar you were with those claims prior to the summer of 1897?

A. Why, I simply went up there in 1896.

Q. Just once.

A. And then back. Yes, sir. But I kept in touch with it through Mr. Creasor writing me.

Q. Yes, through correspondence, but I mean from your personal acquaintance. That is the only time you were on the ground?

A. In 1896; yes, sir.

Q. How long were you up there?

A. I was up there 2 days.

Q. Did you go over the ground pretty well at that time? A. Yes, sir. [389]

Q. I suppose you saw the croppings near the westerly end of what is now that open stope near Station 545?

A. No, I did not see them as far west as the end of that open stope.

Q. About the west end of the open stope?

A. I saw the croppings that run along there; I won't say how far west they go.

Q. At about the end, I say, of that stope? They are still there, aren't they—you can see them there to-day?

A. You are not pointing to the end of the stope, Mr. Gray?

Q. Yes, I am.

(Testimony of Charles P. Robbins.)

A. You are pointing to the east end of that stope.

Q. No, I am pointing to the west end. West is on your left always when you are looking at the map. A. Here is the west end of this stope.

Q. I am speaking of the west end of the open stope near Station 545.

A. Yes, I see it, but here is the west end of the open stope.

Q. That is another stope.

A. They are all connected.

Q. At about Station 545, there were some croppings there, weren't there? A. Yes, sir.

Q. They are there to-day? A. Yes, sir.

Q. You saw them at that time, didn't you? [390]

A. Yes, sir.

Q. Did Mr. Creasor point those to you?

Q. We went up to them together.

Q. Did you go along and follow up the claim to the discovery point, the point where the notice was posted? A. Yes, sir.

Q. Was the notice still there?

A. I cannot recall *where* it was or not.

Q. He pointed that out to you?

A. Yes, sir; I examined the post; I think it was marked discovery post.

Q. At that time the trench—

A. I saw no trench.

Q. There was not any trench there at that time at the discovery point? A. No, sir.

Q. That was put in later?

A. I don't know when it was put in.

(Testimony of Charles P. Robbins.)

Q. It was not there in September?

A. It was not there to my knowledge.

Mr. COLBY.—You do not contend there was any discovery requirement at that time under the Washington law?

Mr. GRAY.—No, I do not, and I am going to have to amend my complaint I alleged that he did do that at that time, but I will amend it in that respect because I assume it is not true. [391]

Mr. COLBY.—That is all right; we will assume that it is stricken out.

Mr. GRAY.—Q. There was a little work done, however, at the face of these croppings near Station 454, wasn't there?

A. I think it is a little easterly of the end of that stope, yes, there is a little work there.

Q. Was there any other work done on the claim?

A. I think there is what we call a little cave near this station of the tunnel.

Mr. COLBY.—Where is that?

A. It would be north of 550; it is what we call a little cave, and there had been a little picking down there, but no considerable work.

Mr. GRAY.—Q. Any quartz exposed there?

A. Yes, sir; there was quartz there.

Q. Did you go on up to the northern end of the claim? A. Yes, sir.

Q. There were some croppings up there, weren't there? A. Yes, sir.

Q. You did not attempt to follow, though, any of those veins at that time?

(Testimony of Charles P. Robbins.)

A. Well, yes; we looked along—to follow them clear across the claim you mean?

Q. Yes, sir. A. No, sir. [392]

Q. Or to determine where they crossed in or out of the claims?

A. No, sir; we just saw that they were east and west veins.

Q. East and west veins?

A. That is, northeast and southwest veins. I was under the impression that we had a north and south vein from the way the claim was located, but we did not find it.

Q. You found, however, outcropping of veins going up there? A. Yes, sir.

Q. You were interested in the claim at the time the patent was applied for? A. Yes, sir.

Q. It was applied for in the name of your partner, Mr. James Clark? A. Yes, sir.

Q. You are familiar with the manner in which it was surveyed?

A. I was not on the ground when it was surveyed, I was busy at Republic.

Q. You were familiar generally with the lines and location as it had been pointed out to you?

A. Yes, sir, generally. I wont say that those are where the original corner posts were by any means.

Q. No, but in substance approximately, running generally in a northerly and southerly direction?

A. Yes, sir. [393]

Q. And you and your associates so applied for a patent to that claim from the Government of the

(Testimony of Charles P. Robbins.)

United States? A. Yes, sir.

Q. Asking the Government to patent to you 1500 in length and 300 feet on each side of the center?

A. I don't know the exact length or exact width of it.

The COURT.—That record is in evidence. It speaks for itself.

Mr. GRAY.—Q. When was this trench over here on the south side of the creek first put in?

A. What trench are you referring to?

Q. The one which you say you saw a vein in having a northerly and southerly course?

A. I don't know when that was done.

Q. When did you first see it?

A. I think in the latter part of 1899 or 1900—not this present trench—

Q. No, but one covering approximately the same vein shown in that trench? A. Yes, sir.

Q. While you were operating how far to the southwest did you work on this vein?

A. On what level?

Q. On any level; I don't care.

A. I did not do any work on the No. 1 level west of the Adit tunnel. The drift was in approximately [394] 90 feet, but I did no work on that. I started this tunnel—where is that No. 2—I started this tunnel on March 15th, 1901, and then we put a raise through. It is obliterated now, on account of an open stope.

Q. I don't care for too much detail. On No. 1 level you did not mine any west of the tunnel?

A. I did not mine any west of the tunnel.

(Testimony of Charles P. Robbins.)

Q. But there was a drift over there about 90 feet?

A. There was a drift over there of about 90 feet.

Q. On No. 2 level how far west or southwest?

A. Did you stope?

Q. Yes.

A. Well, from the crosscut to the vertical shaft, about 20 feet. That did not go clear through to the level, it went up about 20 feet, we put a raise up and connected those levels.

Q. You did all your work on that level from there east?

A. No, sir; on this level we run about 40 feet and put up a small stope there. This point was where I first spoke of the 20 feet. Afterwards this tunnel was driven on to the east end-line and then this shaft was started later along—

Q. That is the Lone Pine shaft?

A. Yes, sir; 1903 or 1904.

Q. From that you worked the No. 3 level? What direction did you work it? [395]

A. I drove a crosscut. We had what we supposed was a hanging-wall of a vein. We drove through about two or three feet of porphyry at this place.

Q. That is in 2, isn't it?

A. Yes, sir; that is in 2 and discovered about 4 feet of quartz here. This was driven on and a part of that shaft sunk and then we sunk from No. 2 on down.

Q. Did you work southwesterly of the shaft on the No. 3 level? A. Yes, sir.

Q. When?

(Testimony of Charles P. Robbins.)

A. As soon as the shaft was completed. I can give you the dates.

Q. I don't care for the dates exactly; how far?

A. We worked as far west and run this little crosscut here.

Q. That is to station 78-C?

A. Yes, sir; run a crosscut to the hanging-wall there.

Q. Did you follow the vein on to the south?

A. No, sir; I did not get any vein there, and our values above were more to the northeast and we had no money to prospect with.

Q. Did you work the No. 4? A. No, sir.

Q. That is as deep as you went?

A. That is as deep.

Q. What is the fact as to that being a tight vein [396] in there or did you have some gouge movement along there on the No. 3?

A. At that point I would say it was a tight vein.

Q. You did not find any gouge along that vein?

A. I don't recall any.

Q. Did you on any of those levels?

A. In the Lone Pine?

Q. Yes, sir.

A. Yes, sir; I did. I drove this crosscut.

Q. On No. 2 tunnel?

A. On 2, we drove this crosscut here and cut this vein, about 2 1/2 feet of quartz and then we found gouge on that side of it.

Q. On which side, the hanging?

A. On the east side, the hanging side; yes, sir.

(Testimony of Charles P. Robbins.)

Q. You found how much quartz there?

A. We went through from 2 1/2 to 3 feet.

Q. And then you came into the gouge?

A. And then we came into the gouge.

Q. Then did you find more ore on the other side of the gouge, or quartz?

A. Well, I don't know whether I found it or whether I have seen that since; I won't say.

Q. But the gouge is there, and the ore on both *sides* in that No. 1 crosscut? [397]

A. This little drift was not run by me. The crosscut simply was run and that gouge has caved since. It was only the size of the drift when I left it.

Q. How thick was that gouge seam?

A. I don't know that we penetrated clear through it. There must have been a couple of feet of it.

Q. A couple of feet of gouge?

A. As I remember it.

Mr. GRAY.—That is all.

Redirect Examination.

(By Mr. COLBY.)

Q. I want to ask you, Mr. Robbins, in carrying on your mining operations underneath the Last Chance here, whether you were working there with the belief that you owned that vein that you were working on? A. Most assuredly.

Q. And even after this suit was started, the additional work that you performed, after that, before you shut down, you also believed that you owned that property?

A. I never believed anything else and I don't now.

(Testimony of Charles P. Robbins.)

Mr. COLBY.—I think that is all.

Witness excused.

(Thereupon an adjournment was taken until tomorrow, Thursday, August 26th, at 10 o'clock A. M.)

[398]

Thursday, August 26, 1920, at 10 o'clock A. M.

Trial resumed.

CHARLES P. ROBBINS, recalled as a witness on behalf of the defendant, testified as follows:

(By Mr. COLBY.)

Q. I want to know, Mr. Robbins, if the plaintiff company ever made any efforts to get you to ship ore through them.

Mr. GRAY.—I object to that as wholly immaterial.

Mr. COLBY.—I think it is material in a way.

The COURT.—It may be, but I don't see the materiality just now. It may go in.

A. Repeated efforts.

Q. They made repeated efforts? A. Yes, sir.

Q. You were shipping in the early stages to another smelter, I understand. A. Yes, sir.

Q. Did any overtures ever come to you from any representatives of the plaintiff company to lease your property to them?

A. Yes, sir; Mr. Bailey asked me if I would not lease it.

Q. He asked you if you would not lease the property to the plaintiff company?

A. To the plaintiff company.

Q. And what was your reply?

(Testimony of Charles P. Robbins.)

A. I told him I would think it over, but I never gave [399] him any answer.

Q. That was about when?

A. Some time in 1918.

Q. That was a year prior to the date the suit was brought? A. Yes, sir.

Q. If the plaintiff should prevail in this suit in its contentions, what effect would it have upon your company?

Mr. GRAY.—I certainly object to that.

Mr. COLBY.—I want to show the amount of ore that would be taken. In fact, that they would have no mine left, practically.

The COURT.—I think that is conceded, is it not?

Mr. GRAY.—I think they would have some left, but I don't think it makes any difference.

The COURT.—The result is immaterial.

Mr. COLBY.—Of course it makes no difference, I appreciate that; that whatever the hardship may be, if the law is against us we have to suffer the consequences, that is true.

The COURT.—Yes.

Mr. COLBY.—That is all.

Mr. GRAY.—My understanding is if the law is against you there is no hardship.

Witness excused. [400]

Testimony of Philip Creasor, for Defendant.

PHILIP CREASOR, called and sworn as a witness on behalf of defendant, testified as follows:

Direct Examination.

(By Mr. COLBY.)

Q. Your name is what? A. Philip Creasor.

(Testimony of Philip Creasor.)

Q. Where do you reside?

A. I reside in Spokane.

Q. How long have you resided here?

A. Why, I have been here since last November, but my family has been here for some years.

Q. And where did you reside prior to that time?

A. In Republic, Washington.

Q. And how many years did you spend in Republic?

A. Why, six years that I was up there steady.

Q. And when did you go to Republic first?

A. I went to Republic—that is, first to the country in 1896, on the 28th day of February.

Q. And why did you go there?

A. I went there to prospect.

Q. And who sent you there?

A. Mr. James Clark and Charles P. Robbins from Rossland, B. C.

Q. Why was it you went over to Republic at that particular time?

A. Why, just because the reservation was thrown open, and Mr. Ryan claimed that he knew of some prospects there in that vicinity in some place that might be pretty good [401] prospects towards mines. And we went over to prospect to see what we could find.

Q. Where did you camp when you got over there?

A. We got there on the 27th, down on the San Poil creek just right down about southeast of Republic, known as Republic now.

Q. Was the town of Republic there at that time?

(Testimony of Philip Creasor.)

A. No, there wasn't anybody living there at all. This was down on an Indian ranch, Batiste's Indian ranch.

Q. That was wild country at that time?

A. Yes, there was nothing there but the Indians, half breeds, etc.

Q. It had been just thrown open?

A. Yes, it had just been thrown open. It was thrown open on the 22d of February at 12 o'clock.

Q. At midnight?

A. At midnight. And we got in there the night of the 27th, from Rosland.

Q. Did you meet any white people in there?

A. Well, not in there at that time. We met Mr. Welty Brothers, two brothers, we met them at Danville, now, and it was then called Nelson.

Q. What was the name of the place?

A. Nelson, it was at that time, but now it is called Danville. It is right on the boundary line.

Q. What are the names of the Welty boys?

A. George and John Welty.

Q. John was the man who testified here the other day? [402]

Q. You are familiar, are you not, with the Lone Pine location? A. Yes. I ought to be.

Q. You were one of the locators?

A. I located it, yes.

Q. Will you tell the Court just how you located it, what happened on that particular day, starting from your camp? What day was it, in the first place, do you recall?

(Testimony of Philip Creasor.)

A. When we went up and located it, it was the 28th day of February, 1896.

Q. Now, just tell the Court what you did on that day.

A. Well, we left camp in the morning, Mr. Ryan and I alone, and the Welty boys, we left them in camp, and we went up west, in a westerly direction from camp, right through and up a little west we struck what is known as the Sherman trail at that time. It went right across the upper part of Republic town, right where the courthouse is now. And then we went up through the old town, that is west, kept on west, and when we got up there, we saw the hills that were up ahead of us different directions, and one particular hill looked pretty high, and we thought we could get a pretty good observation from it of the country, as we had never seen it before, and it has since been called the Flag Hill. So we made for that and left the trail. We crossed the creek at what is known now as the old town and kept on in a westerly direction and right up the hill until we came up near where to this Flag Hill was, and we run across a little ledge, about 2 feet wide, of quartz, and I thought I saw a little copper stain in it, and we located it and called it the Copper Bell. And Ryan he [403] left me to stake it and write the notice and post it up, and he went ahead, straight on up to this Flag Hill, and he went around to the other side of it, and he found a ledge there of quartz, and he came back and told me to get through as quick as I could, that there was a good ledge up there, a good deal better

(Testimony of Philip Creasor.)

on. So we went up then together, and we cut a stake there, it was quite a prominent vein there, looking good, lots of iron stain in it, and we located it, cut off a little tree and wrote out a notice on paper and posted on it. And just then at that time, we saw two or three men coming up on horseback towards us, and we waited until they come up, and it was Half Breed Joe LeFluer and some other parties, and George Reynolds, I believe was one of them, and I forget who the third man was, and we asked them about these veins, if there was anything in them, and they told us the Government surveyors, when they went through there, they told them that they got five dollars in gold. So we thought that was pretty good. We kept on then, up north, and when we got over a little further, we run across a claim that was located and called the San Poil, and in looking across to the northeast, we saw three mountains, like three small mountains, that kind of sets off from the other high ranges, and I says, "It looks like them hills, there maybe ought to be a mine in them, they seem kind of mineralized looking." And he said, "Well, let us go across and see." [404] The creek was between us and what is known as the Black Tail here and the Lone Pine.

Q. That is Eureka gulch you are speaking about?

A. Yes, sir.

Q. That runs right down by the Lone Pine and Black Tail and on towards Republic?

A. Yes. And so we decided that we were to divide there and one of us were to go down what is known

(Testimony of Philip Creasor.)

now and get upon a point, as the Black Tail here; and Mr. Ryan started that way.

Q. Now, I will ask you to point out on the model here, since you have reached the ground in controversy?

A. We were over here like this, from this draw. This is the draw between the Black Tail here and the Lone Pine here—that is, known as that now.

Q. And this draw extends down this way?

A. This draw was going right down this way.

Q. What is the name of that draw?

A. Eureka. And we were up here on these other hills, on the San Poil, so we decided that Ryan would go down and go across and up on this side and I was to go around here on what we call a little cove.

Q. Little cove?

A. Yes, sort of a valley, and go up this little flat and come back on this hill. And that is the way we went. He went up that way and I came right around here and came on just about the center of the hill and there was a long point running up like this, there was no snow on that much. I was making where I could get up there without any trouble. [405] The snow was in the woods and down in the valley; on the north side there was about a foot and a half of snow. So I went around this way and came up right in this direction and when I got over to the hill somewhere we will say in here some place, I ran across a lot of float quartz—looked like float. I looked around and couldn't see no bedrock only just big boulders of quartz in there, so I kept on *til* over here. When I

(Testimony of Philip Creasor.)

got over here I found different ledges, small ledges, and I looked around there and I went on down a little more to the point of the hill and I saw another little ledge or two; and at that time when I looked over I heard something and I looked across over in this direction and Ryan was over there calling me. I noticed that it was him but I couldn't tell just what he said but I knowed by his motions that he wanted me to go over there. So I went to work—there was a little pine tree close to where this ledge is here, a little small tree 5 or 6 inches through, so I cut it down about 5 feet high and squared the top and wrote the description of the claim, describing it, and then I started down. When I got that done I went down, instead of climbing across here—the snow was very deep—I kept this way right here, right across here where the hill was lower, and then went back on kind of a level country bench there, right back to where Ryan was; and when I got where he was the two Weltys boys, and Ryan, they explained to me that they thought there was a vein where we was there, that the Weltys had it located, and had cut the stake down and was figuring on [406] moving the reservation—

Q. The location?

A. The location and whether—to a ledge he said was over the hill. And he broke his axe and they couldn't get stakes, and I found out that was what Ryan was calling me for, to get the axe, but it was getting dark then and we decided not to do anything more. So we all went down to camp together. And

(Testimony of Philip Creasor.)

the next morning, then, why, I wrote this notice out for the Lone Pine, just the way I described it, on paper, and took it back with us and then I located—

Q. So that the Judge will understand, you wrote the notice, your own notice on it, you say, in pencil?

A. Yes, sir, in pencil.

Q. And the next day the notice that you took over there was a paper notice?

A. Was a paper notice in regular form, you know, and filled out with the description the same as I had on the post. I also then wrote the description and located this Last Chance, and they told me that this place here where we put the notice was the identical place where Mr. Welty's notice was.

Q. That is on the Last Chance?

A. Yes, sir; on the Last Chance. The Black Tail notice was right on this ledge in the identical same place.

Q. In order that we do not confuse these notices, the Black Tail notice was originally at the discovery of the [407] Last Chance?

Mr. GRAY.—That is what he says they told him. He does not know.

Mr. COLBY.—Yes, sir.

A. So I wrote out the notice and put it up there, and Mr. Welty wrote his notice, and he signed mine as a witness and I signed his, and he took his down and put it wherever he wanted it. I did not go to see where it was at that time.

Q. That was his Black Tail notice?

A. Yes, sir; that was his Black Tail notice, where

(Testimony of Philip Creasor.)

the notice is now as there discovered. And I went back up over to the Pine around this way because there was deep snow down below the gulch.

Q. How was it in this gulch at that time,—was there any timber there in the gulches?

A. Well, there was a little timber, but not very much, about the same as there is now, that is, in the gulch between the Pine and the Black Tail.

Q. How was it on the Eureka gulch?

A. The Eureka gulch was heavily timbered all the way through.

Q. There was a great deal more timber in that country at that time than there is now?

A. Oh, the timber is nearly all cut down now, but we had to go through the timber until we came down to where we were here and then go up again and we went and posted our [408] notices and I came back down again and over to the hill, and we went and put up the stakes, the corner stake of the Pine and the corner stake of the Black Tail both together. He asked me where I was going to put my stake. Well, I says, "You put yours"—and his really in a way had a right to be a prior location—"You had it located before and was just moving it," and I says, "You have a right to put your stakes just wherever you want them, and I will put mine, so when he put his stakes I went in with him and I helped him to do it, and I says, "That is just as near as I can see what would be all right for my claim, and I will put my stake here, too," and we done so until we got down to the lower corner. That would be the southwest

(Testimony of Philip Creasor.)

corner, down in the gulch, down at the point of the hill down here. And we cut a tree down there and he took the stump for a post and I took the next one and framed it up and cut it and he went on, and I says, "I want to put mine a little farther over." I saw the line was crooked and was going to leave a fraction in there, so I took mine over and put it down in the gulch, down in here so it would come on the line where it is now. It was this corner that was moved in afterwards by a surveyor, and I put it down in there. And then I went back up the hill again and put the other stakes up. Ryan and I went back to the other end, the stake south of me.

Q. The stake at which end?

A. Over to the north end I would say instead of the south. [409]

Q. Yes.

A. And by the time we got that done it was night and we went back to camp again.

Q. Now, as I understand you, you came on what you afterwards located as the Lone Pine from the north end?

A. From the north end, came right in from the north end.

Q. And you first saw what you thought was this float rock?

A. Yes, sir, what is known as the blowout.

Q. What is known as the blowout, in the vicinity of this little tunnel here that is marked 13C?

A. Yes, sir.

Q. And why did you place the discovery or make

(Testimony of Philip Creasor.)

the discovery at this point that you have testified to as being a little pine tree here, why did you put it there?

A. Well, because there was a prominent little ledge there in place and I saw two or three or four ledges and they were prominent in place and seemed to be solid bedrock. There was no float about it and I thought if I would locate with the hill, why it would catch all these veins, I would have 600 feet of the vein anyway, and if I wanted more ground I could locate on each side, and so I put the location right through in a northerly and southerly direction so it would catch all the veins.

Q. Did you at that time actually know which way the veins ran?

A. Yes, sir, certainly, they showed as plain as anything [410] could be, every one of them, at the top of the hill.

Q. How was it with this No. 2 vein,—did you find the No. 2 vein at that time?

A. No, I did not know anything of it at that time. I did not go down that way. It was all grown with grass and smooth and you could not see bedrock, and it was getting kind of a little dusk; it was after sundown then.

Q. I understand Mr. Welty was not with you that day?

A. No, I never saw Mr. Welty until I got over where he was on the—

Q. On the Black Tail hill there?

A. Yes, sir; where Ryan was.

(Testimony of Philip Creasor.)

Q. That was in the evening?

A. That was in the evening just about dusk.

Q. And after you had made your discovery here on the Lone Pine?

A. Yes, sir; after I had located this and went around this way and went down to where they were.

Q. You are familiar with this No. 2 Lone Pine vein, are you not? A. Yes, sir; fairly.

Q. You have mined in the vein?

A. I have worked in it and mined in it.

Q. When did you first gain any knowledge that there was a vein like that there?

A. It was the 6th of March.

Q. Why do you know that it was the 6th of March?
[411]

A. Well, because the 29th we located the Last Chance and the next morning it was the first day of March; it was a very cold day and Ryan did not want to go out, so I went out alone, and went right across to where the main town of Republic is right down on Granite street and went up the next hill, I intended to go to what is known now as the Republic hill.

Mr. GRAY.—I think that these wanderings we are not interested in.

Mr. COLBY.—We will shorten this a little.

Q. Did you come up on the Lone Pine claim until after that, until you had recorded the notice?

A. No—until I recorded it?

Q. Yes, sir. A. No.

Q. How long did it take you to record the notice?

A. I went down to Nelson to record it on the 2d

(Testimony of Philip Creasor.)

and I got back the night of the 4th of March, up to the 10th and found Ryan and he told me he had been over and found a big ledge over on what is known as the Republic hill, so the 5th we went over, got here just at daylight, because there was some other people in camp, and went over and located the Republic and Jim Blaine. That is away south of the camp.

The COURT.—That is not material at all.

Mr. COLBY.—You came up again on this ground on the 6th?

A. On the sixth we came back again to look over the [412] Lone Pine and Last Chance to see whether we could find any more ledges and see what we had, and then we found this No. 2 vein.

Q. When did you do any work on the claim?

A. It was about as near as I can remember, it was two weeks after, because I took the samples, I did not have any pick or tools to work with, I didn't even have any prospecting pick, I broke samples off with a pole and axe, and cut the samples down and took a sample from each place where we found quartz or any ledges that looked good, and went clear back to Nelson, B. C., and took the samples with me to get assays, and they all run a little, and they advised me then, Mr. Robbins and Clark, to go back and gave me more money to go back and get tools and powder and do some work on it, and so we went back and done some, put a cut in each place. We started in on the Republic first—

The COURT.—Never mind the Republic.

Mr. COLBY.—No, don't bother about other claims.

(Testimony of Philip Creasor.)

A. I started in and run a cut in, it would be about as near as I could guess at it; it would be about a month before I got done the work on the Pine; it might be a little less. I run a little cut in right straight down the hill from the top. That would be right about here, I guess, as nearly, as I can guess at it.

Q. On the Lone Pine No. 2 vein?

A. No. 2 vein. I run a little cut in here; just cut across the wash to see how wide it was.

Q. Was there any discovery work required at that time? [413]

A. No. They located under the Government law. They had a year and a fraction to do the work in.

Q. What was the custom in that general district about posting your notice with reference to your discovery?

Mr. GRAY.—No.

Mr. COLBY.—I think that is quite material.

Mr. GRAY.—I object to that.

Mr. COLBY.—I think this witness from what he has told about his locating and his experience as a prospector knows about this general custom.

Mr. GRAY.—He seems to have made the custom; he got in there about the first day. There were no rules.

The COURT.—There were no mining rules there.

Mr. COLBY.—That may be so.

The COURT.—I do not see the materialty of anything except what he did.

Mr. COLBY.—It is merely to show—

(Testimony of Philip Creasor.)

Mr. GRAY.—Oh, well, if you think it is material, Mr. Colby, put it in.

Mr. COLBY.—Q. Do you know whether there was a general custom among miners to post a notice near the point of discovery?

A. No, I don't know whether there is any. As long as the post is near to the discovery spot as reasonably possible as could be, and this one was about as near as I could remember, was about 10 feet from it, and I suppose that is close enough, because I cut this tree off and did not bother to make a regular post. [414]

Q. Now, Mr. Creasor, did Mr. Welty ever take you over on the Black Tail hill before you made your Lone Pine location, and point out any croppings over here on the Lone Pine hill?

A. No, he could not, because I never saw him.

Q. Never saw him until you made your Lone Pine discovery?

A. Never saw him until after he made the location or went down around there. [415]

Q. Mr. Creasor, you have an interest in this defendant company, haven't you, the Lone Pine Surprise? A. Yes.

Q. You are a stockholder? A. Yes.

Q. And you were one of the locators of the Last Chance claim, were you not? A. Yes.

Q. And, either as an owner or part owner of the Last Chance, and also as an owner of a portion of the stock, you have been interested in that Last Chance ever since? A. Yes, ever since.

(Testimony of Philip Creasor.)

Q. Have you any other interests in Republic now?

A. No.

Q. You lived there how long after you made this Lone Pine location? How long have you been up there?

A. I was there pretty near all the time until about—let's see—to 1906. I left there and I wasn't back up in Republic again until six years ago, I guess, in October, I think it was when I went back there; and I have been back once or twice, but just in the camp and out again.

Q. Did Mr. Welty ever tell you that there was any vacant ground north of his Black Tail location and for you to go and locate it?

A. No, he never told me.

The COURT.—The witness testified he never saw him until after he made the location.

A. I never saw him.

Mr. COLBY.—I wanted to bring out the point that he [416] never did tell him.

Q. Do you know, or did you know where the Black Tail was before you located the Lone Pine?

A. No.

Q. Or, the Black Tail claim, did you know where that was? A. No, I had no idea.

Q. And did you do any work on this Lone Pine claim within a day or two after you made the Lone Pine location?

A. No, not for two weeks; not until after I went to Rossland and back again.

(Testimony of Philip Creasor.)

Cross-examination.

(By Mr. GRAY.)

Q. This man, who was a locator with you, his name is Ryan? A. Yes.

Q. Where is he now?

A. Well, I don't know whether he is in the court-house this morning, or not.

Q. He has been here right along, has he?

A. Yes.

Q. You seem to be quite familiar with the model. You are accustomed to looking at models, are you?

A. No, I ain't.

Q. Now, then, just show the Judge here where the Last Chance claim is here.

A. The Last Chance is right in here.

Q. Where was the discovery? Just point that out on the [417] model.

A. The discovery of the Last Chance?

Q. Yes, on the model, point it out.

A. It was about here, I guess.

Q. About where is it on the model? Just show the Judge with reference to the lines of the claim, where it is on the model.

A. Over in here.

Mr. COLBY.—The Judge will observe the discovery is right below where the witness has pointed on the map.

Mr. GRAY.—Q. Did you make that discovery?

A. Why, no.

Q. Who did? A. Mr. Ryan.

Q. Were you over there?

(Testimony of Philip Creasor.)

A. Yes. I was over there and located it, helped him.

Q. How did you get over that day?

A. I went over from the top of the Pine.

Q. From the top of the Pine?

A. From the top of the Pine discovery.

Q. And what day was that?

A. It was the 28th day of February, 1896.

Q. The same day you located the Pine? A. Yes.

Q. You walked way over around this discovery of what you call the Chance. A. Yes.

Q. Where was Welty at that time?

A. Welty was there when I got there. [418]

Q. Welty was here at this discovery when you got there?

A. Yes, along with Ryan. George Welty was there too. The three of us were there together.

Q. Did you see them over at the discovery of the Black Tail?

A. No, I didn't know there was such a thing as the Black Tail claim.

Q. When did you first find out that he had a claim located? A. When I went over there.

Q. When?

A. I didn't know where it was. I knew they located two claims in the camp some place, but that was when we were away off here, 30 miles from there.

Q. But you went over to the discovery of the Last Chance and when you went over there you didn't know where that claim was?

(Testimony of Philip Creasor.)

A. Not until they told me. I went over there and they told me.

Q. Oh, they told you when you went to the discovery of the Last Chance, where there claim was.

A. Yes, sir.

Q. Then you went to camp did you?

A. Yes, we went to camp that evening.

Q. Without putting up any other stakes?

A. Yes.

Q. You went with Welty? A. Yes.

Q. How did you go to camp? [419] A. Walked.

Q. What way?

A. We went down the gulch. It runs down in a southerly direction.

Q. You went right over past the Welty camp?

A. We were both camped together, right below, down here.

Q. You went right over from the Last Chance, walked right over across the Black Tail, over Eureka creek, didn't you?

A. We just crossed one little corner of the Black Tail.

Q. Which little corner? A. Southeast corner.

Q. Where were you camped?

A. Where were we camped?

Q. Yes.

A. We were camped just about from—do you know where the courthouse is in Republic?

Q. No, with reference to the map.

A. In about a southeasterly direction. [420]

Q. How far?

(Testimony of Philip Creasor.)

A. It will be just about 2 miles.

Q. You and Welty were camped down at the same place? A. Yes, down on Battiste's ranch.

Q. And you had not seen him before you went up that day? Hadn't you seen him at camp that morning?

A. Yes, we were all there together in the morning.

Q. Did you have any talk with him?

A. In the morning?

Q. Yes.

A. Most decidedly.

Q. You knew he had a claim located over in the vicinity of Eureka gulch, didn't you? A. No.

Q. He didn't tell you he had?

A. No, he didn't tell me where or what direction his claim was in.

Q. But you knew he had a claim there some place?

A. I knew he had a claim in camp but didn't know where.

Q. And you say you stood over near at the Lone Pine hill and you saw Ryan calling to you from the Black Tail hill? A. Yes.

Q. Who was with Ryan?

A. I could not see anybody. He came over to the brow of the hill as far as he could where he would not get into the snow and hollered to me as near as he could, because he knew I was a little hard of hearing and couldn't hear [421] very well.

Q. But you heard him across the creek?

A. I heard him, but could not hear what he said?

Q. And then you went over?

(Testimony of Philip Creasor.)

A. I went over as soon as I could.

Q. The next day, I understand, you came and put your stakes in? A. Put up the stakes, yes.

Q. And staked out each corner and at the center of each end line; is that correct? A. Yes.

Q. Were those stakes close to where the patent corners of the Lone Pine now are?

A. Close to the patent corner?

Q. Yes. A. That is, you mean—

Q. Were the patent corners placed near where you put your old—

A. No, they were over quite a ways.

Q. How far?

A. Well, I don't remember. I think that southeast corner must be somewhere maybe 150 feet further to the west, I guess it would be.

Q. Over here in the creek?

A. Yes, down in the creek. It would be on a line, a straight line with that hill. The end-line was not moved.

Q. The what? [422]

A. The end-line was not moved.

Mr. COLBY.—The direction of the end-line?

A. Yes.

Q. The southeast corner was put in the same place that it was patented?

A. Yes, that is the same place.

Q. Now, where was your center end stake then, do you remember?

A. Why, it was just as near as we could, about 300 feet from the southeast corner.

(Testimony of Philip Creasor.)

Q. Of course you saw those croppings on the Black Tail, didn't you?

A. No, not at that time, not until afterwards.

Q. Not until the 29th, when you put your corner stake in there in the middle of that line?

A. No, sir.

Q. You did not see those croppings?

A. No, sir, we did not go that way.

Q. How did you get to the center end stake of the Lone Pine?

A. We went right down from the discovery of the Chance, right down to the corner of the Pine.

Q. Which corner?

A. To the southeast corner, and then went straight down on a line down that way.

Q. And what stake did you put in first?

A. The center stake.

Q. And then you put in that southwest stake?
[423]

A. Then put in the corner.

Q. And you could not see those croppings on the Pine—on the Black Tail, from that center stake?

A. No.

Mr. COLBY.—Of course you could not.

Mr. GRAY.—Now, Mr. Colby.

A. No, I could not do it.

Q. Did you see the croppings on what we call the Lone Pine vein near Station 545 on either of those days?

A. No. I saw the croppings, but I could not tell what they were.

(Testimony of Philip Creasor.)

Q. But you saw the croppings?

A. I saw the side of the hill, but I didn't know; I had no idea there was a ledge on it.

Q. As far down the Lone Pine as you came to the south, according to your story, is the point where you posted the notice?

A. I came just about to maybe 50 or 60 feet further to the south than the discovery post was put.

Q. Did you find any more veins on the way down?

A. Yes, there was another little vein or two in there.

Q. Did you look down the hill to the south?

A. Yes.

Q. You could see those croppings over there, couldn't you?

A. No, I could not see it over there.

Q. You did not see it until the 29th? [424]

A. I did not see it until the 29th. Well, I didn't see the ledge until the 6th, to know that it was a ledge.

Q. I know, but you saw the croppings standing out of the ground on the 29th?

A. I saw rock, but I didn't know what it was.

Q. It was standing up prominently above the surrounding rocks?

A. Part of it was standing pretty well.

Q. And that is about at this point 545 at the west end of that open stope; is that correct? That is where they were?

A. Yes, that is possibly the highest point.

Q. And the first work you did on the claim you did at that point? A. Right there; yes.

(Testimony of Philip Creasor.)

Q. When did you afterwards open up that little trench near the point where you marked the discovery? A. When did I cut it, you say?

Q. Yes. A. Why, I didn't cut it myself.

Q. When was that done?

A. Why, I believe it was cut the next year.

Q. The next year? A. Yes.

Q. Now, you said up at the north end of the claim you found what you called blowout croppings of the vein?

A. Not clear down to the north end.

Q. Up near the north end? A. Yes. [425]

Q. Was it your opinion from what you saw at that time that these veins ran in an easterly and westerly direction? A. Yes.

Q. How did you come to locate this claim in a northerly and southerly direction?

A. So as I would take all the veins in and all the quartz that was in sight and on the top of this ridge.

Q. Mr. Creasor, had you located mining claims prior to that time? A. Yes, sir.

Q. Been a prospector? A. Yes, sir.

Q. Where had you prospected?

A. I had prospected in California, Nevada—not Nevada—Yes Nevada, and Washington, British Columbia, Michigan, Minnesota.

Q. You had had a long experience as a miner and a prospector? A. Yes.

Q. You were familiar with the location of mining claims by prospectors? A. Yes.

Q. And yet you say that you located across these

(Testimony of Philip Creasor.)

veins instead of along the vein that you discovered?

A. Yes.

Q. You knew, of course, that the mining law gave you the right to locate 1500 feet along any ledge that you discovered, didn't you? [426]

A. Yes.

Q. And 300 feet on each side of the center?

A. Yes.

Q. You yourself wrote the location notice in which you claimed the 1,500 feet along the ledge which you had found on that claim?

A. Yes, that is what I claimed on the notice.

Q. And you asserted in that notice that it ran in a northeasterly and southwesterly direction, didn't you? A. Well, I don't know.

Q. Didn't you allege that you had run 1,500 linear feet on this ledge, in your location notice?

A. Well, described it that way.

Q. Now, you want the Judge to understand that you did not think you were locating 1,500 feet along that ledge; is that it?

A. Well, I knew I was not right along the ledge.

Q. Didn't you think you were locating the ledge which ran lengthwise of that claim? A. No.

Q. You thought you were locating one which ran crossways?

A. I thought I was locating maybe dozens of them, or I didn't know how many, that was running crossways of the hill, and it was a hogback hill, and if I was running that way I would take in them all.

(Testimony of Philip Creasor.)

Q. It was your purpose, then, to locate several ledges [427] with this claim?

A. Yes, it was, sure.

Q. Did you attempt to trace out any of these ledges at this time?

A. No, not before I located. Just where I could see.

Q. How far could you see this ledge that you say you found at the point where you marked the discovery?

A. Well, that evening I don't think I saw it any more than 20 or 30 feet, or maybe 50 or so.

Q. In which direction, 50 feet?

A. Why, in a northeast by southwesterly direction.

Q. At the discovery? A. Yes.

Q. In a northeast by southwest direction?

A. Yes.

Q. You say you never were over the lower end of that claim except to stake it until after you had gone and reported your location notice?

A. I didn't catch just what you said.

Q. You were never over any portion of the southern third of the Lone Pine claim—I might say the southern half of the Lone Pine claim, except to put the corner posts and center post, prior to the time you filed your location notice?

A. No. Before I filed it?

Q. Yes.

A. No, only just to put up the posts, that is all.

Q. You were over at the Black Tail discovery.

(Testimony of Philip Creasor.)

before [428] you filed your location notice?

A. Yes, before I filed it.

Q. That would be on the 29th?

A. Yes, that would be on the 29th; along in the afternoon, I think it was.

Q. You knew where it was?

A. Yes, I knew where it was then at that time.

Q. And at that time you knew of those croppings of the Black Tail vein on the Black Tail claim?

A. Well, I knew which direction the ledge went where the discovery was.

Q. I say you could see it sticking out of the ground there, couldn't you? A. Yes.

Q. Follow right along them?

A. When you ran down to them you could see them.

Q. Certainly. And you saw those on the 29th?

A. Yes, the 29th.

Q. And, of course, on that day you took a look at that mine over on the other side of the hill?

A. Well, I likely took a look over, but that is all you could see. You could not see anything but rocks sticking out.

Q. Rocks sticking out all over?

A. Yes, very near everywhere on the south side of the hill. You could not tell one from another.
[429]

Redirect Examination.

(By Mr. COLBY.)

Q. How did those rocks look that were sticking out of the hill?

(Testimony of Philip Creasor.)

A. Why, I could not see any difference at a distance, whether it was poor rock or whether it was quartz, or what it was, because it showed kind of rusty color, all alike, you might say, kind of mossy.

Q. Those rocks along here on the outcrop of the Lone Pine were indistinguishable from the country rock from a distance, weren't they?

A. Yes, you could not tell them from the country rock at a distance.

Q. Mossy?

A. Yes. Except you knew it. If you knew them you could see a distinction, but just to come along and look at the hillside a man could not tell. You could not tell it from country rock. I was right on the ledge crossing it before I saw it to know that it was a ledge.

Q. The Lone Pine No. 2? A. Yes.

Q. Now, Mr. Creasor, you have mined on that Lone Pine Ledge No. 2 for quite a while, haven't you? A. Yes.

Q. Where, in your opinion, is the southwesterly extension of that ledge?

A. The southwesterly section?

Q. The southwestern extension of that ledge.

[430] A. Where does it go?

Q. Yes.

A. Well, I believe it goes right down almost to the Pearl vein.

Q. The Pearl vein is this vein marked in yellow here? A. Yes, right over there.

Q. On Exhibit 26? A. Yes.

(Testimony of Philip Creasor.)

Q. And it is marked as the Surprise vein?

A. Yes, crosses near the corner and back to the railroad cut.

Q. Is that the same vein as the Surprise vein?

A. Well, that is what I believe, and always did.

Recross-examination.

(By Mr. GRAY.)

Q. Look here; why didn't you follow it down there when you were mining? Why didn't you follow that vein over there?

A. Follow that vein over to that railroad cut?

Q. Yes.

A. Well, it only came in there, showed on the surface in stringers, little stringers that ran down after the railroad was built down there, little stringers that ran down, kind of forming a wall of ledge matter, running down through that.

Q. I say, why didn't you follow this vein over here, if you had it continuing when you were mining upon it?

A. Well, because it didn't show anything to justify it. [431]

Q. You didn't find anything to justify you in following it; is that it?

A. Why, no, except that there was something to work on; it was small.

Q. And you didn't find anything to work on over there?

A. No, it didn't look like it justified working.

Q. Is that Mr. Ryan sitting back there, one of your colocators? A. Yes.

(Testimony of Robert M. Anderson.)

Q. He is still interested in this company, too, isn't he? A. Yes.

Witness excused. [432]

Testimony of Robert M. Anderson, for Defendant.

ROBERT M. ANDERSON, called as a witness on behalf of the defendant, after being first duly sworn, testified as follows:

Direct Examination.

(By Mr. COLBY.)

Q. Mr. Anderson, what is your full name?

A. Robert M. Anderson.

Q. And where do you reside?

A. At Roundup, Montana, at the present time.

Q. And what is your occupation? A. Miner.

Q. How long have you been mining?

A. About 30 years.

Q. And what sort of mining have you done in that time? A. All kinds of mining.

Q. You have mined in what places?

A. Well, I have mined in the principal mines of Montana; mined in Idaho and Washington, Nevada and California.

Q. Have you had any experience up in Republic?

A. Yes, sir.

Q. Are you familiar with the Lone Pine location?

A. Yes, sir.

Q. I will ask you to come to the model here. You are familiar with the Lone Pine vein No. 2?

A. Yes, sir; I have worked on it a number of times.

(Testimony of Robert M. Anderson.)

Q. On different occasions? A. Yes. [433]

Q. You are familiar with what is called the No. 4 vein? A. Yes, sir.

Q. Have you mined in there? A. Yes, sir.

Q. Did you mine while they were taking ore out of the No. 4 vein? A. Yes, sir.

Q. Point out to his Honor what work you did in the No. 4.

A. I worked in a small stope about here. Here is the main vein. That splits and runs this way.

Q. That work was a little turn just to the northwest of stope 133-C, at the extreme end of the workings? A. Yes, sir.

Q. Now, on the Lone Pine No. 2 vein; have you examined that? A. Yes.

Q. Do you know its characteristics?

A. Yes, I have worked all over it almost.

Q. Now, have you examined this ground with the idea of finding an extension of the Lone Pine No. 2 vein in a southwesterly direction, if there is one?

A. I never did, until lately.

Q. You have done that lately? A. Yes.

Q. You have gone over the ground with the idea of finding the facts, as far as you could find them?

A. Yes.

Q. Where, in your opinion, is the extension of the Lone Pine No. 2 vein, beyond this big stope going southwesterly [434] or southerly?

A. Well, there is quartz here that might be—I wouldn't say it is, because it is not connected up in the gulch.

(Testimony of Robert M. Anderson.)

Q. Why do you think it might be?

A. Well, I don't know any other place for it to come from. It is the same character of ore as the No. 2 vein.

Q. And what is its strike and dip with reference to the No. 2?

A. Just about the same, as far as I can see. Isn't opened up very well.

Q. In your opinion, then, as a practical miner, that would be the probable extension of the No. 2 vein? A. Yes.

Mr. GRAY.—These are rather leading, Mr. Colby. He said it might be.

Mr. COLBY.—He said it might be and expressed that as his opinion. I am simply following up the testimony he had already given. I sometimes fall into the error of using leading questions, but I notice opposing counsel is not entirely above that same error. I didn't call his attention to it several times, because I thought we were getting along pretty well in the course of this examination. That is all.

Cross-examination.

(By Mr. GRAY.)

Q. Now, Mr. Anderson, you say it has the same character ore *ore*, as the No. 2 vein?

A. Well, as near as I can tell. [435]

Q. Well, have you been over in any of the workings over in the Black Tail?

A. I never did any work in the Black Tail; no.

(Testimony of Robert M. Anderson.)

Q. I didn't ask you that. Have you been over in any of these workings?

A. I was through them; yes.

Q. That is the same character of ore, too, isn't it?

A. No, I don't think it is.

Q. Different? A. A little softer; softer ore.

Q. Is the quartz softer?

A. Yes, sir.

Q. You think, then, there is a difference between the ore in the Black Tail vein and the ore in what you call the Lone Pine No. 2 vein?

A. Looks more like what we call sugar quartz; softer.

Q. More like sugar quartz and softer? A. Yes.

Q. Did you point that distinction out to any of these distinguished geologists, show them the difference in the character of the ore? A. No.

Q. You went over it with them?

A. I did not.

Q. Didn't you, with Mr. Lakes, or Mr. Burch or Mr. Wiley?

A. They were in there at the same time, but I wasn't with them.

Q. You were all in together, but you wasn't with them? [436] A. No.

Q. You didn't show them that difference then?

A. No.

Q. Whereabouts did you see this sugar quartz in the Black Tail? By "sugar quartz," what do you mean?

A. Well, I mean quartz that breaks up fine.

(Testimony of Robert M. Anderson.)

Q. If you put a shot in the ore in this Black Tail vein it breaks up finer than if it is put in the Pine, you think? A. Yes, sir.

Q. Where did you observe this?

A. I have seen—I have worked right at the Black Tail different times; I have seen the ore coming out of there.

Q. I thought you said you never worked there.

A. I never worked there. I worked in the Surprise just below that.

Q. You worked in the Surprise? A. Yes.

Q. Well, how is that ore? Is that sugar quartz over in the Surprise, too?

A. It is softer; softer character of quartz; yes, sir.

Q. You have examined these surface trenches, haven't you? A. Yes.

Q. Let's get over to the map. You have examined this one down through here? A. Yes, sir.

Q. Marked "Cut" at 108-C? A. Yes.

Q. Is there any difference in the quartz there and the [437] quartz in these points 9474, 9475, and 9476?

A. In those cuts I couldn't find anything but stringers.

Q. In 108-C, you say in there there is nothing but stringers?

A. That is all I could see.

Q. There is quartz there, isn't there?

A. There is quartz there; yes, sir.

Q. Is it different in character from the quartz

(Testimony of Robert M. Anderson.)

you find in the stopes near the southwest corner of the Pine claim? A. Well, it is—

Q. Yes, or no.

A. No, I don't think there is any difference there.

Q. Is it different from the quartz which you find in this trench up at 558, that cut there?

A. This quartz here and this?

Q. Yes, on the two sides of the gulch, isn't there a difference in the quartz? A. I don't think so.

Q. And you have been down that trench from the open stope, haven't you? A. Yes, sir.

Q. Is there any difference in this quartz and the quartz on the other side of the creek, in the cut?

A. It is a different color, that is all.

Q. Different color? A. Yes, sir.

Q. This is yellow, and the other is red?

A. Blue here, quartz.

Q. One is blue quartz, and the other is yellow quartz? You [438] think the Judge, if he goes up there, can identify this over on the north side of the creek as being blue quartz and this on the south side as yellow quartz? Is that the reason they have had it marked yellow on the map, do you suppose? A. I can't say.

Q. Let us go up here. You say you have worked in this Pine a good deal? A. Yes.

Q. Did you work there when they ran out on this working to the south from these stopes?

A. Yes, I leased in there.

Q. You leased in there? A. Yes.

Q. And you followed out from the stopes and

(Testimony of Robert M. Anderson.)

around back again; is that correct?

A. Yes, this vein comes up this way on the wall.

Q. And bends around?

A. It comes up there and about that degree, perfectly flat? Q. Dips easterly, doesn't it?

A. Why, it,—

Q. No,—

A. It goes right back to the other vein.

Q. Dips easterly, doesn't it?

A. Northeast.

Q. I suppose if a little winze had been sunk out there before that turn had been made, you would have thought that vein dipped easterly on strike, northeast and southwest [439] that is the way it looked? A. It does there.

Q. That is the way it looked in the ground to you, I suppose, didn't it?

A. There are four distinct veins right there, stringers as we call it. They come out of one vein and they go right around—it is a big body of ore with horses in it; that is what we call it,—geologists call it a vein.

Q. You didn't figure it went back to a connection on the easterly side? A. Yes, sir.

Q. Whereabouts? A. Just above the 200 level.

Q. That is here? A. Yes, sir.

Q. That is where it unites with that vein. But on its strike it didn't come back up, did it?

The COURT.—Have you ever followed it to find out whether it came back?

A. It comes back, down to the bottom end.

(Testimony of Roy H. Clark.)

Mr. GRAY.—You mean out here?

A. No, that has never been worked clear out.

Witness excused. [440]

Testimony of Roy H. Clark, for Defendant.

ROY H. CLARK, a witness called on behalf of the defendant, after being first duly sworn, testified as follows:

Direct Examination.

(By Mr. COLBY.)

Q. What is your full name? A. Roy H. Clark.

Q. And your residence?

A. Spokane,—now. Really in California this winter.

Q. You are temporarily in California? A. Yes.

Q. What is your occupation?

A. Mining engineer and manager or superintendent of mines.

Q. What is your education?

A. I went to the University of California and took the mining course.

Q. What has been your experience in your profession?

A. Well, I have been a surveyor, assayer and superintendent; superintendent of the LeRoy, Josie, I. X. L., in Rossland Camp, practiced as mining engineer in Spokane, I suppose 7 or 8 years; engineer for the Bunker Hill & Sullivan two or three years; field engineer for the United States Smelting Company for about 4 years, and I have been manager of a copper property in Oregon, about 2 years, and I

(Testimony of Roy H. Clark.)

am now superintendent of a magnesite property in California.

Q. How many years has this experience covered?

A. About 25 years.

Q. Have you had any experience in the Republic camp? [441]

A. I have been up there as surveyor and examined properties in the camp; yes.

Q. Are you familiar with the Lone Pine and adjoining claims here in controversy? A. Yes.

Q. I will ask you to come to the model, and ask you if you have examined these various exposures, of the exposures in the vicinity represented by this model, and with the idea of finding out what there is there, from an engineer's standpoint?

A. I have.

Q. And by the way, while I think of it, you made a large portion of the surveys upon which these maps and the models are based, did you not?

A. Yes, sir.

Q. Will you explain to his Honor in your own way what you found there, with reference to the No. 2 vein, and any extension or continuation of that vein in a southerly direction either through the Black Tail or any other claim?

A. Well, the vein is a very persistent vein across the claim until we arrive at the point in controversy, where it is intercepted apparently, by a fault, and beyond that fault is a fracture vein containing quartz having the same strike and dip as the No. 2 vein, to the southwest of this fault.

(Testimony of Roy H. Clark.)

Q. Identify that by some number if you will.

A. Well, that is near surface Stations 576, 575 and 574, and I will say that that is a fairly well-defined vein at these points mentioned. [442]

Q. What is the character of the vein that you see there, Mr. Clark, in dimensions and size?

A. At the winze that has been mentioned heretofore it is about 30 inches wide, and going south-westerly it increases in width from that to a maximum where I measured it of about 6 feet of what would be termed ore in this camp. And from there it narrows down to a small seam, but can be followed right to the railroad cut. It crosses the west side-line of the Lone Pine claim.

Q. What else leads you to believe that it is a continuation of the No. 2 vein? What is its strike?

A. The strike is about 33 to 35, from 25 to 35 east.

Q. What is the average strike of the Lone Pine vein?

A. Well, it varies from north 30 to north 45 east or thereabouts.

Q. Did you get any dips of the vein exposed in those cuts?

A. It is rather difficult to get the dip there, but the dips that I got were about in the vicinity of south 50 degrees east, a similar dip to the No. 2 vein to the northeast.

Q. Now, you went through these workings, did you not, that have been run by the plaintiff company extending up the hill into the Black Tail vein?

A. Yes.

(Testimony of Roy H. Clark.)

Q. Or toward the Black Tail claim and toward the Lone Pine southerly end-line? A. Yes. [443]

Q. What did you find exposed in those workings there?

A. Well, there is a vein of quartz there that extends from a point about 10 feet north of 557 in a southeasterly direction to a point probably 10 feet beyond 108-C and the quartz there varies in width from 2 to 4 feet, from that point about 10 feet north of 557 to a point about 10 feet south of 108-C.

Q. And as you come further in these trenches southerly what do you find?

A. The trench to the east, there is little bunches of quartz until you get to the mouth of that trench, and from the mouth in it is gravel wash and no veins showing.

Q. And in the westerly trench?

A. The westerly trench, there is a seam and bunches of quartz—there is just simply small bunches of quartz and wash right out to the end-line.

Q. Is there anything comparable to the vein that you found farther down? A. No, there is not.

Q. That you have described before? A. No.

Q. How about this little tunnel that runs underground there, what do you find in that?

A. Well, there is a little stringer of quartz that runs in there a short distance. It is cut off pretty well to the mouth of that tunnel, right in right at the portal of that little tunnel, underneath near the surface, it is [444] cut off, and in the face of that tunnel there are two little streaks of quartz I suppose half an inch or an inch wide that lay very flat.

(Testimony of Roy H. Clark.)

Q. Have they the direction of that vein that you describe further down?

A. By stretching your imagination you might say they had the same trend, but it was such a small exposure and they are so minute, it would be very difficult.

Q. Are they any different from the exposures of quartz that you find through the country rock in many places? A. No.

Q. In your opinion is the Lone Pine No. 2 vein an extension of the Black Tail vein? A. No.

Q. Have you examined the No. 4 vein?

A. I have not examined the No. 4 vein very thoroughly except to survey.

Q. You have surveyed those workings there that are on that vein? A. Yes, sir.

Q. Has there been any stoping done in there?

A. Yes.

Q. Now, you have been up here at what is marked on this model as Lone Pine discovery, have you?

A. Yes, sir.

Q. What do you see at that point or in that vicinity? [445]

A. There is a well-defined vein in the discovery cut probably 24 inches wide, and it can be followed continuously in my judgment to the west side-line of the Lone Pine claim.

Q. And how about its persistency to the east, towards the east side-line?

A. It can be followed probably halfway down the hill without any difficulty—it can be followed and it

(Testimony of Roy H. Clark.)

has good walls, that is, you can find the fractures even where—there are points there where the quartz is broken up more or less, that is, what we call vein quartz, but you can follow the fracture planes all the way across to the east side-line.

Q. There is one point here that I wish to call to your attention, and that is out at the end of this curve on the level that has been run out from the winze that has been referred to as the gulch winze. Have you seen any exposure of quartz at the face of that?

A. Yes, sir; there was an exposure of quartz in the face of that near the floor when I last visited that place.

Q. When did you see that face last?

A. It was last Saturday.

Q. The 21st? A. Yes, sir.

Q. And what was the appearance of that quartz that you saw in that face?

A. That quartz dipped to the southeast and I should say about 50 degrees and had a strike of about south 25 west. [446]

Q. And conformed substantially with the Lone Pine in strike and dip and the Lone Pine vein?

A. Yes, sir.

Mr. COLBY.—I think that is all.

Cross-examination.

(By Mr. GRAY.)

Mr. Clark, when were these cuts here at the southwest corner of the Pine first put in?

A. They were put in prior to my last visit to the

(Testimony of Roy H. Clark.)

property, some time; I don't know.

Q. When was that?

A. I visited the property again, I think I arrived there Tuesday night of last week.

Q. Had any of them been put in when you left previously? A. No.

Q. When was it that you left there before?

A. The first of October, 1919.

Q. And your investigations were prior to that except from last Tuesday? A. Yes, sir.

Q. You had studied this ground at that time for the purpose of ascertaining what the relations were between the veins that you found there?

A. Yes, sir.

Q. You had no idea at that time of any theory of a vein going out in the direction of those cuts?

A. Yes, sir; I did. [447]

Q. Did you direct any work to be done for the purpose of ascertaining that fact?

A. Well, I rather advised it; yes, sir.

Q. But it was not done?

A. It was not done before I left. It was done afterwards.

Q. And when you do not know?

A. No, I do not know.

Mr. COLBY.—When did you leave?

Mr. GRAY.—The first of October.

The WITNESS.—In 1919.

Mr. COLBY.—I think the reason was, Mr. Gray, that you would not give us permission, or we would have done that work before.

Mr. GRAY.—No, Mr. Colby. I will have to call

(Testimony of Roy H. Clark.)

somebody on that. I gave you permission to do all the work you wanted to do.

Mr. COLBY.—Yes, but I mean at that time.

Mr. GRAY.—I gave you permission to do all the work you ever asked for.

Mr. COLBY.—Mr. Wiley was the one who wanted that work done, and some three months after we wanted it done we got permission to do it.

Mr. GRAY.—When was that, last spring?

Mr. COLBY.—That was some time last spring.

Mr. GRAY.—Then *if* it is understood that last spring they had permission to do this work as early as February.

Mr. COLBY.—And they made those cuts in there at that time. [448]

Mr. GRAY.—Then I assume you had time enough to develop anything you wanted to.

Q. Now, this vein that is marked in yellow on the south side of the gulch, there is no question in your mind that that is the Black Tail vein?

A. Yes, sir; there is quite a question. I think it is quite possible it is not.

Q. But you have reached—

A. No, I have not reached any conclusion about it.

Q. You are not willing to say that what Mr. Burch and Mr. Lakes have identified in the end of 108-C is the Black Tail vein? A. No.

Q. Where is the Black Tail vein?

A. I think it petered out before it got that far.

Q. So you do not think it reached that far?

A. No.

(Testimony of William Pierce.)

Mr. GRAY.—I think that is all.

Witness excused. [449]

Testimony of William Pierce, for Defendant.

WILLIAM PIERCE, called and sworn as a witness on behalf of the defendant, testified as follows:

Direct Examination.

(By Mr. COLBY.)

Q. What is your full name?

A. William Pierce.

Q. What is your residence? A. Republic.

Q. What is your occupation? A. Miner.

Q. Have you mined any on the Lone Pine claim?

A. Yes, sir.

Q. I call your attention to the model here—I might state I am not calling Mr. Pierce as a practical witness, but merely to identify one proposition. I call your attention to this little winze colored yellow in the Lone Pine No. 2 tunnel, near point marked "Station 64." Do you know anything about a winze that is there?

A. Yes, sir; I was superintendent and had this work done.

Q. What showed in that work at that particular point?

A. There is ore there that will run 15 to 18 dollars a ton.

Q. What was the width of the vein there, shown in that winze?

A. As near as I can remember, we had a power drill in there, a one-man drill, and we broke to about

(Testimony of William Pierce.)

30 inches with it, as near as I can remember.

A. And how deep did that winze go?

A. Well, about 12 or fifteen feet, somewhere in that neighborhood. [450]

Q. And that that you were breaking 30 inches wide, that was vein, was it?

A. Yes, quartz.

Q. And did that extend into the wall on the side of the winze?

A. Well, it apparently had an eastern dip.

Q. A dip to the east? A. Yes.

Q. And what was the strike?

A. Well, I won't be sure on this, but I think it was northeast and northwesterly, but I would not be positive on that.

Q. It was across the winze anyway?

A. Yes, crosscutting the winze.

Q. How was it with reference to the No. 2 tunnel, which direction did the vein run?

A. Right crossways.

Q. Directly across the tunnel?

A. Yes, practically at right angles.

The COURT.—How far?

A. It is just across the hole.

The COURT.—That is all you know about the vein is what was in that hole?

A. Yes.

Q. The hole is about 15 feet deep?

A. Yes, somewhere in that neighborhood.

Cross-examination.

(By Mr. GRAY.)

Q. Wasn't that ore worth mining? [451]

(Testimony of William Pierce.)

A. What is that?

Q. Wasn't the value of that ore sufficient to justify mining it? A. No, sir.

Q. What was the value of the ore you were mining there at that time?

A. Well, the ore they were mining was the mill feed.

Q. I didn't ask you whether it was mill feed. What did it run?

A. Around about nine or ten dollars.

Q. Around about nine or ten dollars, and it didn't pay you to mine \$15.00 rock?

A. Well, there is a difference in mining ten dollar rock and \$20.00 rock.

Q. I guess that's right. That's all.

Witness excused. [452]

Testimony of Walter H. Wiley, for Plaintiff.

WALTER H. WILEY, called as a witness on behalf of the plaintiff, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. COLBY.)

Q. What is your full name?

A. Walter H. Wiley.

Q. What is your profession?

A. I am a mining engineer.

Q. How long have you practiced that profession? Or I will ask you to state how long you have been engaged in mining first.

A. My first work as a miner was done 40 years

(Testimony of Walter H. Wiley.)

ago. In 1883 I graduated from the Colorado State School of Mines, and since then I have been continuously engaged for a while as an assayer and surveyor and after that as a mining engineer.

Q. What has been your experience? Just briefly narrate where you have conducted your calling and what has been your experience.

A. My work during this time has taken me into much of the western mining sections and has extended into Alaska, into British Columbia and the Yukon territory, into a number of the states of Mexico, into South America and Asia.

Q. Have you made any examination of the Lone Pine and adjoining claims in the Republic mining district? A. I have.

Q. Have you been there on more than one occasion? [453]

A. First in October, 1919, and again in August of 1920.

Q. I will ask you to state to the Court in your own way, as a result of the observations that you made on these trips, the position and existence of any veins in that territory and any of the geological or mining engineering conditions that you found there, and ask you to tell this in your own way to the court.

A. The main veins or the most numerous fissures extend in a northeasterly and southwesterly direction. In addition there are two very pronounced veins, probably one of them at least larger than any of the northeast veins, these north-south or northwest-southeast veins being the Surprise-Pearl vein and the

(Testimony of Walter H. Wiley.)

Black Tail vein. Of the northeasterly veins the most northerly vein on the Lone Pine claim is shown near the northern end by an outcrop of quartz; a small cut run a little south of this point shows a similar outcrop. These have not been connected and I do not know just what direction that vein may take.

The first vein, the direction of which is plainly defined, is in a small tunnel driven in for about 30 feet. It shows a large northeasterly vein. It has not been developed beyond, so far as I know, the tunnel itself.

The COURT.—Is that 4?

Mr. COLBY.—No, it is one that is very close to No. 4.

The WITNESS.—We are speaking of the surface.
[454]

Mr. COLBY.—We are not sure it is number 4.

A. This vein has a direction rather more easterly than No. 4, and there is no work connecting it, so that I do not know. No. 4 vein itself at the surface is probably developed in a shaft which is very old and rotten and I have not examined that shaft except at the surface.

About 75 feet south of this tunnel is the discovery vein of the Lone Pine. The discovery point is at the summit of the hill and the vein has been opened recently by a series of surface cuts and trenches. At the immediate discovery point, that is, taking the discovery point as a stump, the blazed stump of a pine tree which is there to-day, we have no quartz at that immediate point, but 8½ feet to the north of

(Testimony of Walter H. Wiley.)

that point there is a plain outcrop of quartz. I have a specimen of that which I would like to show. This sample which I have marked 1-W lay in the ground in the position shown, the direction of the longest axis being easterly and westerly. It illustrates, first, the surface moss. This projects above the surface and there has been no excavation whatever at this point. So it illustrates the discovery vein at this point as it has doubtless existed for many years. The surface moss covers the outcrop for a portion of the way so that the quartz is not distinctly visible until it is checked off. Then it is seen to be solid quartz. The entire piece on the under side is plainly seen not a distinctly banded piece of quartz but still of that nature. It has come from a considerably larger piece. In taking it out it [455] cracked and some of it came off. This is $8\frac{1}{2}$ feet north of the discovery post and it is 2 feet east of the discovery trench. The discovery trench is a shallow cut running across the vein. In the eastern side of this trench the vein shows a very distinct band of quartz 16 inches in width. Going westerly from this discovery cut the vein has been followed by a series of cuts and at a point about 15 feet from the discovery there is more than five feet of solid quartz. This width is due to the fact that another quartz vein has come in and united with that from the discovery. Farther west the vein is not as large. This 5 feet is the largest place I have seen in the vein, but it can be distinctly followed clear across to the side-line, the west side-line, of the Lone Pine claim.

(Testimony of Walter H. Wiley.)

At a point about halfway down the hill there is a very plain outcrop 22 inches in width. That also illustrates the covering of the quartz by the surface moss and that you have to break it off before you see the real nature of the quartz. This piece looks to me like ore.

It has the banded nature and especially the dark streaks running through it which would make me think as a miner that it was worth testing to see if it would not be valuable ore.

Q. Let us have that marked. [456]

A. It is marked 2-W. There is one slight interruption as we go west in the work, due to the fact that there is a very large tree right over the outcrop, and the trenches have not been carried through under that tree, but there is no doubt whatever in my mind but that the vein, which has been followed above, is the same as the vein which has been followed below, so that we can trace continuous quartz to the west side-line. We could trace quartz in many other places besides this trench. It is not a simple, clear-cut quartz vein. There are a series of veins and small streaks of quartz. The system of small quartz veins which extends in a northeasterly and southwesterly direction, with some smaller streaks between these, extending northerly and southerly, a sort of link system of quartz veins. Going to the east, from the discovery, we follow this white quartz very distinctly for a distance of something over 100 feet, and then there is at that point a marked change. The country to the east is more stable and the large

(Testimony of Walter H. Wiley.)

streak of quartz which we were following disappears. Now, there is nothing on the surface at that point except the fact that the quartz has ceased to indicate a fault. But that of itself suggests the possibility of a fault. And in the workings underneath in the No. 1 tunnel drift running from that, we find that there is a fault which has dislocated the vein. That it has a strike and a dip such that if it continues it would come at the surface, somewhat near this point of interruption. The conclusion which I would draw as a miner, is that it is probable the interruption is due to this fault, but in the absence of development I would not be certain of this. However, [457] at about 10 feet farther to the east of the trench the quartz comes in again from the north side and has been followed to a place near the east side-line of the Lone Pine, where, for a shortance, I was unable to find any quartz, and for a considerable distance the quartz is quite narrow. I am not certain by any means that the entire quartz of the discovery vein is disclosed in this trench, but a portion of it is, and it is practically continuous and as a vein it is continuous in my opinion from the discovery to the east side-line. So that we have, taking the work as a whole, a continuous development, with a slight interruption, of the fault from the west side-line to the east side-line, of strong, well-pronounced quartz vein; not as strong a vein as other veins, but, speaking generally and comparing it not alone with the disclosure of veins in discovery shafts but with veins anywhere, it is a strong, presistent vein. It has val-

(Testimony of Walter H. Wiley.)

ues such as would justify not only its location, but its working in the expectation of finding ore.

Under the surface, coming south from the discovery we have a number of other quartz exposures. They have not been developed, and I don't know where they go. And the main information as to the conditions is derived from the No. 1 crosscut tunnel, which has been driven immediately beneath this area and intersects a great many veins. They are marked in red upon this model, and their direction is almost universally northeast. The north-south system as represented by the Pearl-Surprise and the Black Tail vein does not extend over this area. There are no north-south strong veins developed. The first vein, excepting the three upon which drifting has [458] been done from this tunnel, which we meet going south, is the No. 2 vein. It is the main strong vein of that section. On No. 4 vein, lying away to the north, some stoping has been done, but nothing like so extensive as on No. 2. It is a stronger vein than any of those to the north, and, as shown by the stopes, has been the vein which has constituted the main fissure and upon which the main work has been done. This is an unusually well-defined strong fissure vein, cutting down at an inclination to the south and its dip and strike are best shown in a general way by taking the stopes from top to bottom and from their eastern to their western end as shown upon the model. This vein crosses the eastern side-line of the Lone Pine. I have not been able to check up exactly the distance, but I think it was 598 feet.

(Testimony of Walter H. Wiley.)

Mr. GRAY.—589.

A. 589 to the southeast corner. That appears to me to be substantially correct. At that point, the vein does cross the side-line and extends northeasterly into the Last Chance claim, and from its surface in the Lone Pine, it has been mined continuously upon the same vein to the deep stopes beneath the Last Chance. Going in a westerly direction, either on the surface or on any of the levels, we follow this vein a number of feet in width, although variable, and on the surface we reach a point where it makes a bend. It makes a little bend in the stope itself on the level, as you can see from the surface; not a material bend, but something as it approaches the brow of the hill. That is no more abrupt a bend than we have in other places. So [459] that it might easily be just a local bending, or it might be, and in this case, it is a bend, I fully believe, due to a faulting further on. The vein is approaching a fault, and a fault and fracture in the earth's crust is due to a stress, of course, which breaks the crust of the earth and before even the solid rocks break they bend first, and then they break. Although the crust of the earth and the rocks may be brittle, still, as a mass, it is a common thing to see bends as you approach faults. In fact, to a miner, it suggests always the possibility of a fault, and the direction of the bend suggests to him the way to go to find the faulted extension beyond the fault. Now, on the surface, before we reach this fault at all, we have a very marked bending of the

(Testimony of Walter H. Wiley.)

outcrop. We have been coming along in that line, and the outcrop makes an angle of about 25 degrees, as shown by these two sticks of the bending of the surface. This is due to a small extent, to the bending of the vein of which I speak, but more so to the fact that a black vein is approaching a hill. I think a simple illustration of that would be—supposing this book is a vein. The top of it is the quartz outcrop which we follow on the surface. It goes over a hill. If that hill approached a vertical cliff, we would have a change in direction of 90 degrees in a vein which has no bend whatever. If the vein were perfectly flat, it would be a change in 90 degrees in direction on a plane. If it is an inclination, the change in direction varies according to the inclination of the vein in connection with the amount of the erosion. But a better illustration is to take the exact conditions in the ground. The contours [460] show the surface of the ground. The red shows the vein a perfectly straight vein coming there, is necessarily at its outcrop thrown down the hill. It is a question of the cutting of one plane by the plane of the surface of the hill. Now, that is not all. In this case as we go down, we meet a trench at the end of the red, painted white with a streak of blue. There is a marked change at this point. The quartz which we have been following from above, several feet in width, is intersected by a fissure, and we do not find this large amount of quartz, although we do find quartz along that fissure, until at a point 30 to 40 feet farther down, we again encounter a large amount of

(Testimony of Walter H. Wiley.)

white quartz. There is a marked change for that space between the quartz which we see above and the quartz which comes in below. The quartz of the two places is similar so far as I am able to detect. They might easily be from the same vein. That is a common thing in a district that the quartz is similar, and yet to the man who has mined in tons, and shipped it, there may be striking differences which are not apparent to the casual visitor. On the model, the quartz just below is colored yellow. It is only a small occurrence, and is not very perceptible, but there it is colored yellow. Now, the color scheme of this model is simple, red for the northeast-southwest veins and yellow for the northwest-southeast veins. And as I said before, the only northwest-southeast veins shown are the Lone Pine Surprise which extends straight through the country, and the Black Tail vein which has been developed to the south and extends in a northerly direction.

Q. You called that the Lone Pine Surprise. You meant the Pearl Surprise, didn't you? [461]

A. Yes, I meant to say the Pearl-Surprise. Now, the Black Tail vein is known beyond question to the south in the Black Tail claim, as at its discovery, which is one of these cuts near the south end, there is a plain well-defined quartz vein, several feet in width, a big outcrop of quartz on which you can walk. A discovery point is marked upon the surface map and the quartz outcrops to which I alluded is indicated by the yellow color in connection with the work at this point. You can walk

(Testimony of Walter H. Wiley.)

along on that wall for a ways, just as if you were on an artificial stone wall and all at once it terminates. There is nothing there to prove a fault, but looking for the extension of the quartz we have to look over to the right for a distance of 30 feet or so where we see a smaller wall extending on. There is no question but that that is due to a fault, although we see no fault whatever on the surface. We only see the evidences of a fault in the displaced section of the vein. There again, underground, we do find a fault which has a position that indicates that this surface exposure where there is a break in the quartz of the Black Tail vein, is due to this underground fault. We are able to follow this Black Tail vein with break very clearly, in a northwesterly direction, up to the most northerly cut up to 63-C. There is a good strong vein pointing directly in the direction of the south end-line of the Lone Pine, but we do not see any vein whatever beyond that on the surface. It suggests that a similar thing has happened to that to the south, that there has been a fault. Farther north in a surface [462] cut on the Lone Pine claim, there is a strong, well-defined quartz vein. I always considered that that was the Black Tail vein. I had no doubt in my mind that it was except that the recent development which has been run to and across the end-line has utterly failed to find any vein which corresponds in size and character with the Black Tail to the south so that I must qualify my opinion by saying that while I believe that the Black Tail vein

(Testimony of Walter H. Wiley.)

continues on ore coming from the other direction, that the Black Tail vein continues to the south to the end-line, I further fully believe that there is some faulting in there which has not been developed, and the probabilities are that the vein lies to the east and farther up the hill and is not disclosed in the underground workings. The quartz vein which has been followed in the surface cut near the south end of the Lone Pine claim is necessarily interrupted by a gulch, Eureka Gulch, which cuts through. One other thing I perhaps should mention while here, that there is a trench across the end-line of the Lone Pine, and that this trench is about 10 feet deep—and in the bottom of that trench there is a large chunk of quartz, perhaps twice as large as this specimen, Exhibit 1, of pure white quartz, vein quartz, beyond question, but it is entirely in wash so far as I can see. It may be on the under side attached to the bedrock and be in place, but I very much doubt it. Now, this gulch, Eureka Gulch, which cuts through interrupts— [463]

Q. I think that is called the Pine Gulch?

A. Pine Gulch, and Eureka is below, that is true. Pine Gulch joins Eureka a short distance below. It entirely interrupts the tracing of that vein on the surface. If this strong quartz vein, which appears as a wall standing above the surface, very much harder than the porphyry country rock, had continued unbroken through there; it is extremely likely that we would have seen more of the outcrop. The gulches are always lines of erosion

(Testimony of Walter H. Wiley.)

where, for some reason or another, the rock is softer or through fissuring or some other agency, is rendered more susceptible to erosion, more easily worn down. If that were not true, we would have no gulch. In a trench immediately below this gulch, recently run we do find what I will call the Black Tail vein, because I believe it to be the extension of the Black Tail vein. We find it developed by a winze some 40 feet in depth, and either a raise above that or the winze is sunk from the surface, I don't know which, continuing down. That contains the same body of quartz which has been followed in the trench above. Going north from this winze, this same vein has been followed a distance of 15 feet or so and shows in the end of the little drift. Beyond that the wash comes in so that it cannot be followed. This winze has been sunk 40 feet deeper and at that point a curved drift has been run in country rock. There is vein material in the winze itself and, as colored blue on the surface, that is meant to indicate a fissures along [464] which there has been faulting in that winze; but the main drift itself, as run, is in country rock. Two small crosscuts have been run from this drift in a westerly direction. The first one is totally boarded at the end and I do not know what is in it. It indicates that there has been caving ground. The second one, at the time of my visit, was full of muck and was just blasted clear to the top. There was nothing visible but the top, and I do not know what showed in the bottom. South from this tunnel, which runs into

(Testimony of Walter H. Wiley.)

the gulch winze, the Black Tail vein has been followed for a short distance, as shown by the yellow coloring, and this tunnel, which has two branches, has been driven, I presume, to develop the extension, but at a short distance on it reaches a closed fault, which terminates the showing of quartz in that tunnel, and beyond that I did not find the vein. Above this, near the surface, there has been other tunnels, the upper two, or surface tunnels, entirely in wash, but a tunnel underneath has been driven, which is in solid formation, and has reached a point practically underneath the end-line. There is some quartz in there, but its direction and quality does not correspond in any way with the big Black Tail vein that shows just beyond. So that is part of my reason for my belief that the same Black Tail vein has not been developed by any of that work, possibly lies up the hill farther as a fault section.

(Whereupon an adjournment was taken until 2 o'clock P. M.) [465]

Thursday, August 26, 1920, 2 o'clock P. M.

Trial resumed.

WALTER H. WILEY resumed the stand as a witness on behalf of the defendant and testified as follows:

Direct Examination (Resumed).

(By Mr. COLBY.)

Mr. COLBY.—Before we proceed, may it please your Honor, we have overlooked one sheet in our assays that was taken at the discovery point. Mr. Wourms called it to our attention that there were

(Testimony of Walter H. Wiley.)

more assays than showed on the sheets that were put in. By mistake, Mr. Robbins had one of those with other assay sheets, and we would like to attach this. As a matter of fact, the showing is lower than on the other sheets.

The COURT.—It may be attached and admitted. The witness may now proceed with the examination.

Mr. COLBY.—Proceed, Mr. Wiley.

A. I had followed the vein which I believed to be the Black Tail in a northwesterly direction to the Pine Gulch and had also traced the Lone Pine No. 2 vein in a southeasterly direction, to about the same point.

Q. Southwesterly.

A. In a southwesterly direction to about the same point. Extending in a southwesterly direction on the opposite side of Pine Gulch, to the disclosures on the Lone Pine No. 2 vein, there are several surface pits marked 574, 575, and 576, which disclose a strong quartz vein, several feet in thickness, carrying quartz similar in nature to that of the other veins, and having a direction southwesterly, approximately [466] parallel to that of the Lone Pine No. 2 vein. It is not in the direct extension of the workings, but is offset to the south. The surface, on account of the wash, discloses nothing except as we may surmise from the absence of the quartz and from the fact that there is a line of erosion. Immediately beneath the surface in Lone Pine No. 2 tunnel, we have a series of workings which throw some light on the matter. As we come

(Testimony of Walter H. Wiley.)

in Lone Pine No. 2 tunnel, the first vein of size which we encounter is a vein running in a north-westerly direction, developed by a short drift and by a winze which is filled with water. There is a strong quartz vein at least 2 feet in width, having a dip in a northeasterly direction, disclosed in those workings. [467]

The COURT.—How far has that been developed?

A. The model of course will show the exact location of the gulch, and the distance is about 80 feet northerly, you see, this way, which is shown with the yellow coloring upon this model.

The COURT.—How far is that from the No. 2 vein?

A. That is immediately adjacent to the No. 2 vein, and extends northerly and away from it.

The COURT.—How far?

A. As we go north about 25 feet in the face of the drift. In the face of that drift it is plain to see this vein which extends on in a northerly direction, but has not been developed at that point. In the surface above this I do not see anything corresponding to this vein, but in the tunnel, which has been driven at a distance of about 400 feet farther to the north we encounter a vein at a distance of about 80 feet in that tunnel from its mouth running in a direction and similar in character to the vein shown in the winze.

The COURT.—What is the distance between these points, approximately?

A. The distance is about 800 feet, but I will give

(Testimony of Walter H. Wiley.)

it to you more accurately.

The COURT.—That is close enough for all practical purposes.

A. No, it is not that much. It have been just doubling this scale. It measures a little less than 9 inches, which is 360 feet. About 350 feet between these points. Now, on the surface immediately above here there is no indication of that vein. It is covered with wash. [468] The nature of the vein at the northerly exposure is more of a fault nature, more clay than there is to the south. Parallel to this vein and cut right at the mouth of the Pearl tunnel is another vein; and on the surface there is shown alongside the railroad about 400 feet farther south another exposure of the same vein, I believe, as cut at the mouth of the tunnel, the Surprise vein. Now, in this case of the Surprise vein I have not seen for a long distance any indication on the surface of the vein, but I unhesitatingly call it the Surprise vein, because in addition to the vein a drift runs continuously underground. The nature of the vein through there is different from these quartz veins in that there is a great deal more clay there. As we go to the north on these claims the clay seems to be increasing in quantity. There is quartz at intervals, but the nature of the veins has somewhat changed. So I believe that the vein which is cut in the winze, if it continues to the north, as I believe it does—I know it does, as far as I can see, is represented by the vein cut in the Pearl, and that it extends northerly substantially

(Testimony of Walter H. Wiley.)

parallel to the Pearl-Surprise vein. This vein does not line up as we go south exactly with the Black Tail vein, which I believe it to be, any more than does Pine No. 2 vein line up exactly with the surface disclosure of quartz which I believe to be its extension. There has been faulting between these points, not simply one plane, but there are several fractures. We encounter a fault plane going down the gulch winze. We encounter a fault plane as we go in the tunnel driven to the south on the [469] Black Tail. And we encounter a fault in the surface stoping. And in No. 2 tunnel we find a fault plainly shown, first in a little crosscut at Station 656, driven to the south, we find lumps of clay, along what I believe to be the Black Tail vein; and further in, in the second crosscut at 64-C we find a strong line of fault running across that and in the main crosscut of No. 2 tunnel, at about 20 feet beyond the winze we find another. It is a complex system. The drift or tunnel which is driven south from the last known—absolutely known exposure of No. 2 vein has quartz shown at intervals along the south side, and follows a very clearly, plainly defined fault, plane for a considerable portion of its distance. Near the westerly end of this trench, it has been bent sharply in a southerly direction and leaves the fault and vein and extends for a greater portion of the distance through slide, through wash. That portion which is colored red and blue upon the model extending to the right, follows a distinct quartz vein, to a point near its surface. The quartz

(Testimony of Walter H. Wiley.)

there is seen on the right-hand side of the drift. Now, the first time I went in there, as I nearly reached this drift, the men came running out saying it was caving, and I could hear the rocks and see them falling down, and I went out immediately on to the surface and I could see a hole on the surface, where this slide rock had caved from the surface. Back of the point where the cave was, when I tried to look up in the roof of this drift, which was closely timbered on account of the cave, I could see an opening extend up for a number of feet. I could see a little quartz there, but nothing that seemed to me to be in place. Whereas, [470] the bottom of the drift on the right-hand side as you go in is certainly in place and shows a distinct streak of quartz of considerable size extending in the direction of that drift. Now, this fault which has been followed by that drift, and which, as I said, is, in my opinion, represented by two or perhaps three branches, as we go to the east straggling out from one fissure to two or three, is the reason why the opposite ends of these two veins do not align; they are faulted directly beneath the gulch, the Lone Pine No. 2 vein being thrown somewhat to the west and showing its extension to be southwest in the surface cuts which we see.

The COURT.—What is the distance between the two ends?

A. The distance between the southwest end of the drift and the nearest point of the incline which is

(Testimony of Walter H. Wiley.)

swung along some 20 feet to the west, under the wash, is about 60 feet.

The COURT.—What is the distance between that and the end of what you conceived to be the other end, the Black Tail?

A. The distance between the next exposure of the Black Tail to the south from the nearest point of this drift is about a little in excess of 40 feet, and to the northern exposure—of course, that is measuring along the strike of the fault is about 100 feet.

Now, this fault vein is an irregular vein and the planes of the vein are irregular. The motion along this fault, instead of being as we would see it measured on a drift horizontally, has undoubtedly been more nearly in a vertical direction. I say this because the evidences of motion as we see them on the veins, or in the country rock adjacent, are usually distinct grooves, some hard projection, as the [471] ground moved one on another along this split. And if those grooves are plain and distinct, they are a definite indication of the direction of the movement. In this case, in these grooves where we can see them, both in this and in the Surprise vein, which is a very strong fault line, are within about 15 degrees of vertical, or straight down on the dip of the vein. Instead of that, they change a little to the south of straight down. So that the motion vertically, would be very considerably more than the horizontal, resultant as we see it in the ground.

The COURT.—What was the extent of that fault?

(Testimony of Walter H. Wiley.)

A. You mean the amount of the displacement?

The COURT.—Yes, sir.

A. I really don't know. For me it is rather a difficult thing to determine, but to approximate it, if we assume a movement of about 100 feet, as a thrust fault, that is, a reverse fault, the hanging-wall moving up instead of down, as it sometimes does, it would explain the position of these veins.

The COURT.—What is the extent of it in other directions?

A. The horizontal displacement varies greatly on different levels. The best illustration, perhaps, of that, would be on the map where we have the vein on the surface in Pine No. 2, the extension to the southwest, and making this band along the fault, so that the horizontal displacement, if you measured at right angles to the vein, over to a point opposite where this extension would be, if extended, would measure 50 or 60 feet, but if you take the distance between the last [472] occurrence of quartz, it might be nothing, and would be very much less than that.

Now, having said that, perhaps I should try to explain how that can be—nothing one place and a great deal another. If this represents a vein, and the line between the two books, the line of a fault, and we have a motion downward' or in any direction, we can have a point at which the two ends of the vein represented by the two books meet, and another point where they are widely separated. Especially is this so if our vein is wide. We

(Testimony of Walter H. Wiley.)

may have a motion, say, if the width of that book on a scale of 40 feet to the inch, is 40 feet, we can have a motion where there is a perfect contact of the back side of one book with the front side of the other, which is represented by quartz, would be a continuous connection on the quartz, yet actually a horizontal distance of 40 feet, so if the quartz is homogenous on both sides of the vein, as a miner drove through there, he would not know he had the quartz.

Now, my reasons for believing that the Lone Pine No. 2 vein extends in a southwesterly direction and across the west side-line of the Lone Pine, instead of making a bend to the south, joining with the Black Tail vein, are based not only on the occurrence of this fault which I have seen on the extension of this vein to the southwest, where there is as much as 5 feet of quartz, which is pay ore, corresponding except for the lack of stopes, exactly with the Lone Pine to the northeast, but on the fact, that there would have to be a very phenomenal turn to make the Black Tail extension, now, there may be phenomenal turns, phenomenal turns [473] are very common, which make a letter "Z" or most any shape under some conditions, but it is not at all common to have a turn continuing as this does, indefinitely, and when we have a choice, if there were nothing else to determine than the existence of this vein in line, and this vein at 90 degrees, as a miner you would not hesitate to say that the vein turned there. If the Lone Pine No. 2 vein were the same

(Testimony of Walter H. Wiley.)

as the Black Tail, the yellow space and the red space on the same vein, then as we go down in depth, they should remain on the same vein. We must not only figure the relation on the surface, but the relation in depth. [474]

A. The last seam of the Lone Pine vein in the deepest working in the Chance claim, the bottom level, it is continuing down in the same regular plane, comparatively regular plane, observed everywhere throughout the area shown by stopes. How deep it will continue in that direction, of course I do not know. But the vein as shown on the red stopes must be the same vein, if it is at the surface, must be the same vein in depth as shown by the yellow stopes. If we connect them by the nearest straight line with the deepest known workings, we would have to have a vein which runs substantially as shown by this paper (indicating). If we assume a continuation in depth of the Lone Pine vein, and it is almost certain that it will continue for some distance, then we must assume a bending somewhere along there on this vein deeper down in order to have it identically the same as that of the Black Tail, as shown in the Black Tail stopes.

The COURT.—The Black Tail has never been developed beyond the yellow?

A. The Black Tail has been worked, so I am told, by a winze and drift shown here. All I personally know about that is that that winze is entirely full of water. I have never seen it or even heard what was found in there. It is put on the model—

(Testimony of Walter H. Wiley.)

The COURT.—There is nothing there at present to indicate the point where you are below here?

A. There is nothing to indicate except that the Black Tail continues downward as it does above. Now, there is an added reason why I do not believe this makes the turn, and [475] that the yellow stopes are on the same vein as the red. As I said, there are two systems of veins, the Pearl-Surprise, a strong vein running northwesterly, and the Black Tail, a vein substantially parallel. The Pearl-Surprise vein continues straight way north of where the bend would have to be in order to switch the Black Tail over to the Lone Pine.

The COURT.—That is shown by development?

A. That is absolutely shown by development underground. And I would expect that the Black Tail vein being of the same system parallel would continue substantially to the north in the same way. And when I find a vein, as I do in the Pearl tunnel, it simply corroborates the belief I have that that is the extension, and that it does not make any abrupt turn different entirely from the Pearl vein of the same system.

Cross-examination.

(By Mr. GRAY.)

Q. Mr. Wiley, his Honor asked you how far it was in this drift on the No. 2 level between the southerly exposure of what you have termed the Pine vein and the nearest exposure of what you have called the Black Tail vein, and you said it was 40 feet in a southerly direction. How far is it, as a

(Testimony of Walter H. Wiley.)

matter of fact? It is less than 10 feet, isn't it?

A. I am measuring from the end of the drift to the end of this drift. [476]

Q. Why did you overlook the exposure in what you have all conceded to be that vein in the said winze just a few feet below?

A. That is deeper down where there is a little exposure of a vein which may be the Black Tail, and very possibly is.

Q. How far is that?

A. Measuring down to that exposure in depth would be probably 15 feet, but the distance direct is on the same level between the ends of the drifts.

Q. Projecting that up to the level of the No. 2 tunnel from the sand winze, how far would it be from the end of the 331 working?

A. It could easily connect actually with it, if you put a raise up from there it would actually connect.

Q. If it comes up on its ordinary dip it would connect with it at the end of that drift?

A. Or nearly the end of that drift.

Q. And this other vein which you have said may be the extension—or expressed the opinion or assumption—is how many feet from this of the 331?

A. The end of the incline is about 60 feet.

Q. Mr. Wiley, do you desire his Honor to understand that you are in the habit of projecting an exposure such as you have in No. 2 tunnel at Station 64-C 380 feet through the undeveloped territory to a point such as 92-C and say they are the same vein? [477]

(Testimony of Walter H. Wiley.)

A. Never with positive certainty and always accompanied by an explanation explaining my reasons for the belief.

Q. The only reason is that you have a fault in each place with some quartz and some gouge?

A. We have a good vein of similar character in each place.

Q. Is the strike the same? A. Strike is similar.

Q. Is it the same? A. Very much the same.

Q. Get your notes and let's see.

A. My notes are simply as I platted them on the map.

Q. You didn't take an actual course?

A. I took the actual survey as shown on the map, and in each case it was so marked. I will show you.

Q. No, never mind. Did you actually take an observation underground of these two strikes?

A. I certainly did not. Of the drift—when there is an actual drift I always take the surveyor's notes. They are much more accurate than the compass which may be affected underground. If there is no actual development then I take the compass course.

Q. So you didn't take the course on No. 2 tunnel?

A. On No. 2 tunnel I took it from the surveyor's map, where the vein corresponds with the strike of the working.

Q. Did you take the course at 92-C with your compass?

A. There I have taken the course and platted it on. [478]

Q. What is the course?

(Testimony of Walter H. Wiley.)

A. I haven't it noted except as I can scale it from the plat.

Q. What is the dip?

A. Sixty-five degrees at one side and 72 at the face of the little crosscut in an easterly direction.

Q. What is the dip over here on these veins that you have described, as they cross No. 2 tunnel?

A. Sixty-three degrees.

Q. I want you to just show his Honor that map. (The witness exhibits the map to the Court.)

Q. That shows the actual observation that you made underground, does it?

A. Not altogether because I don't write down in full the details.

Q. No, but I mean that it represents that vein as you observed it, together with the fault as you observed it underground?

A. The blue represents the distinct fault streaks; the red represents the veins.

Q. Now, then, at Station 331 on your map and on your notes you show it, don't you?

A. I show quartz.

Q. Of what vein?

A. The quartz there is possibly the quartz of the Lone Pine vein.

Q. You show the quartz of the Lone Pine vein on that same level up to within how many feet of the quartz on the other side of the fault? [479]

A. Well—

Q. No, in feet.

A. The picture shows for itself. There is a little

(Testimony of Walter H. Wiley.)

light red tracing through there. There is some quartz accompanying the slip, practically continuous.

Q. What is the actual displacement of that vein on this level according to your own observation, by this 100-foot fault, in feet? A. If this—

Q. No, no; just in feet. Just measure it and then if you desire to explain, do so.

A. The displacement would be measured by taking in this case on one side of the vein, say the north side, and the north side of the other and as you measure that along the fault there it is about—not over half an inch—would not be over 20 feet; but that does not represent the 100 feet of displacement or the necessary displacement at any other part.

Q. But it represents the actual displacement shown on the level of the vein? A. No, not at all.

Q. Along the plane of the fault?

A. Not at all. May I explain why?

Q. Yes, indeed, if you can.

A. Because that assumption is based on the fact that we have a vein here and it slides to there (indicating). If that were correct, that would be perfectly right. But [480] instead of sliding horizontally from there to there it moves up and down as you suggest 100 feet.

Q. One hundred feet you said?

A. So that the portion of the vein which is here now corresponds with a portion of the vein which was originally 100 feet here and off on the vein. If the two points are a different width and on a warped surface instead of a mathematical plane then that

(Testimony of Walter H. Wiley.)

does not represent the displacement. It is the observed horizontal observation of the displacement at that point.

Q. It is the observed displacement; it is the assumed length there, determined in order to work out your theory. You haven't measured that on the ground to show that displacement?

A. There is no theory whatever, either in this map or in my mind. It is as near I can recall the observed facts as I saw them. I afterwards make my theory.

Q. As a matter of fact, it is true that you follow what you call the Lone Pine vein southeasterly from Station 103 through to Station 326 and into the little crosscut running easterly from Station 65-C?

A. Yes, I don't follow it into that crosscut; I had to go around.

Q. But you believe it to be there? A. Yes.

Q. You desire his Honor to understand that in your opinion that vein between that point and the point where you pick it up near Station 331 has been faulted by a fault of the magnitude you have described? Yes or no. [481]

A. I know it has been faulted—

Q. Yes or no.

A. And the magnitude, in my mere estimation, would approximate 100 feet.

Q. An apparent displacement of practically nothing on the level?

A. It might be absolutely nothing at one point. In this case it is perhaps 20 feet.

(Testimony of Walter H. Wiley.)

Q. Now, Mr. Wiley, I note that you have shown in a drift northerly from the gulch winze, you have a vein which has what course?

A. Generally north.

Q. That vein is gently inclining from a south-westerly direction to a northerly direction as you follow it there, isn't it?

A. As you follow it back to the south, bending.

Q. Let's use the word "bending." It bends from a course of northwesterly to northerly, doesn't it?

A. Yes, it bends in that direction.

Q. And it is the same vein in your judgment that is disclosed in the sand winze?

A. Well, the sand winze, I don't know. I have always had a mental reservation as to whether the small piece of quartz—this is a little winze entirely in wash except that it shows vein quartz in the bottom. That quartz may be Black Tail or it may be Lone Pine. I do not know. It has no structure by which I can determine it.

Q. This fault that you speak of cuts through the vein on No. 2 level on Station 331? [482]

A. It follows along the vein partly cutting through and cutting through farther to the north.

Q. And following the footwall?

A. For a ways, yes.

Q. You follow it much farther than you have shown on your notes, don't you?

A. That is as far as I have observed the plane of the fault, but it may extend farther.

Q. What is the southern movement of what you

(Testimony of Walter H. Wiley.)

have chosen to call the Lone Pine vein which you show near Station 64-C on the other side of the fault, on the east side? A. It is represented—

Q. No, I mean of the Black Tail.

A. It is shown in the winze and the drift from which the winze was sunk.

Q. On the east side of the fault?

A. On the east side of the fault the nearest known point is shown on the face of the drift running north from the gulch winze.

Q. How far is that displaced, apparently, on the level?

A. Between what two points do you mean?

Q. We will assume that it is the same one as in the sand winze.

A. If it is the same one as in the sand winze there would be no displacement between it and the south.

Q. Then to the north, Mr. Wiley?

A. From the northern exposure the sand winze is a distance of about 80 feet. [483]

Q. Was that vein dragged any by this fault that you have talked about? Do you find any drag to that vein?

A. Well, I think they have both been dragged in the sense that there has been broken quartz and that both veins have been bent slightly before they approach the fault.

Q. This is what you find opposite 331; is in place, isn't it?

A. Yes, except that it is along the fault.

Q. Yes, but it is in place?

(Testimony of Walter H. Wiley.)

A. Yes, but a portion of the quartz immediately along the fault is fault drag in the sense that it has been bent out of position by the fault.

Q. Now, have you your notes of the working 558 just above the No. 2 tunnel that we have been discussing? [484]

Q. Mr. Wiley, as a matter of fact, you can follow down that drift and get continuous quartz, can't you—that trench, I should say.

A. You can get most excellent, large continuous quartz to the point where the Blue fault comes in, and then you find a large bunch of excellent quartz to the top of that, but there is an interval in there where there is very much less quartz.

Q. Very much less, but there is quartz.

A. There is some quartz; yes, sir.

Q. All the way; yes, sir. Now, does the fact that there is much or little quartz make any difference in the placing of a vein?

A. In such a case as this, yes, sir, where you have a large, five-foot or larger vein, then you find a vein sharply going across the end of it and having a different direction, and along that vein you find a very much lesser amount of quartz, which can be easily explained as a drag falls with the fault, which is entirely different from the pinching out or the change of a vein from a large one to a small one.

Q. At the point 63-C you said you saw the Big Black Tail vein crossing northerly.

A. Yes, sir; I saw what is unquestionably the Black Tail vein.

(Testimony of Walter H. Wiley.)

Q. You found nothing comparable in size with it in the trench at 61-C, in the end-line trench, therefore you thought it did not go through there.

A. I thought, taking into consideration the fact that [485] the habit of faulting seems to be very prevalent, that I have found a fault to the south.

Q. How many hundred feet?

A. About 400 feet. But it is extremely probable that there is another fault there.

Q. Now, the fact is that from there north, it is covered with wash and drift, glacial drift and wash.

A. That is the very reason that I believe it is a fault, because you come along the open faults and then you go into wash.

Q. As the wash covered the vein, do you think you have struck a fault?

A. If I find the extension as I did here, going on to the north, I know I have found a fault. If I am unable to find an extension, I don't know, I only suspicion a fault.

Q. You thought that the showing in this end-line trench was not of such magnitude that it compared with the vein at 63-C.

A. It looks to me like a chunk of quartz that has rolled down the hill from above; it is entirely in wash as far as I can see, except that I have never seen the underside of that.

Q. You did not see these streaks of stringers along there? [486]

A. I saw those little streaks of quartz in the tun-

(Testimony of Walter H. Wiley.)

nel below. Excuse me, Mr. Gray, you asked about the surface trench.

Q. I meant the tunnel.

A. The tunnel is under the trench deeper down. That is not in wash; that is in place. There are several stringers of quartz, but they do not begin to compare in any way with the Big Black Tail vein.

Q. Why, Mr. Wiley, you are not unfamiliar with veins that are as wide as 55 feet pinching down to an inch, are you? A. They might.

Q. You know very well the vein which was involved in the Argonaut-Kennedy litigation, do you not? You were a witness in that case.

A. I remember something of the case.

Q. You remember of tracing that vein from a width of 55 feet to a width of an inch, don't you, in a very short distance?

A. I think that vein got thinner than an inch.

Q. So that that would not be unusual, would it?

A. It is possible.

Q. A miner, however, can follow down that trench 558 and into the trench and be in continuous quartz, can't he?

A. He could follow from one vein across a fault, which is a third vein, into a second vein, and be in quartz all the way, of some sort.

Q. Irrespective of all of these faults, etc., that have been introduced, he can do that, can't he?

A. He can do that. [487]

Q. There is one thing I want you to explain. These faults are rather persistent, aren't they, and

(Testimony of Walter H. Wiley.)

rather strong as you have observed them?

A. No.

Q. You think they are rather continuous, don't you?

A. Not always. Some of them are, and some are small.

Q. Does a fault of a hundred feet throw as much as that and die out quickly?

A. Sometimes abruptly. May I explain why?

Q. If you wish.

A. For instance, the main strong fault is along the Pearl Surprise. How much motion has been, I do not know, but it is often two or three feet of clay with deep grooves scored in solid quartz. There must have been a tremendous movement. And when that country, one side of that vein moves relatively to the other, there were necessarily a lot of subsidiary fractures, and I fully believe that these veins, these faults in that section have something to do with this big pronounced fault. The result of that is, for instance, that going in a southwesterly direction, these fractures will certainly—not certainly, no, there is nothing certain—probably stop on the Pearl-Surprise fault, and that they will extend out from that to a limited distance.

Q. Did you find any such faulting along what you confess to be the Black Tail vein, over in the Black Tail workings?

A. Yes, distinct lines of movement along the vein.

Q. Not a great fault such as you have described along this Pearl-Surprise? [488]

(Testimony of Walter H. Wiley.)

A. Not so great. But in that other particular stope, standing right there in the open air, you can see the quartz and distinct grooves on it. There has certainly been extensive movement also in the vein of the Black Tail vein itself.

Q. What was the thickness of the fault material in the widest place in those faults.

A. It is simply a grooving, like a chiselling in the quartz itself.

Q. Tell his Honor how thick that quartz material was. You have told us about the Pearl Surprise vein, how thick it is over there. How thick is the gouge that you found in this fault in the Black Tail?

A. I don't find any great thickness of gouge comparable to this.

Q. What is the thickness, Mr. Wiley?

A. I cannot tell you that.

Q. An inch?

A. It is common to have some gouge.

Q. An inch?

A. Yes, much more than an inch in places.

Q. Two inches? I want you to give the most you can remember and tell us where.

A. Well, I have merely the mental memory that there is gouge in places. Whether it is thicker than two inches, I could not say.

Q. You compared that vein with the Surprise vein, and said it was very similar. You did not find any such gouges in the Black Tail vein as

(Testimony of Walter H. Wiley.)

those you have described in the Surprise vein, did you?

A. Through the ore body, no, I did not. But I do find [489] these evidences of faulting in the vein, which are more convincing to me than any gouge could possibly be, that there has been movement there.

Q. You did find one continuous fault here that you assume was continuous, extending, I believe, from the No. 4 vein, so-called through to what level is that, the 100 level?

A. I never assumed the continuation of that. It is marked on the model by a blue line crossing No. 4 vein, and there is another blue line in the northern end of the drift. I believe that those two are the same.

Q. And you said you believed also that they indicated a faulting of the discovery vein.

A. I said that I found interruption of the quartz in the discovery vein which I believed to be due to a fault, although I saw no evidence other than the interruption; that is, no clay or anything of that kind at the surface, and no grooving. That underground a long distance, if there was a fault which if continued on its strike and dip would come approximately where this fault was, I think maybe the same.

Q. And that fault is so small that it does not even displace the ore?

A. It displaces it only a few feet.

Q. Now, Mr. Wiley, this great big fault which

(Testimony of Walter H. Wiley.)

you have described, and which you have given an opinion concerning as faulting above the so-called Black Tail and so-called Pine No. 2 veins, if continued on its course, is bound to show in some of the trenches between the discovery point on the Lone Pine and the west side-line, isn't it? [490]

A. If it continued through that distance it would show it.

Q. Did that fault that so-called discovery vein?

A. No, it has terminated before reaching that.

Redirect Examination.

(By Mr. COLBY.)

Q. What explanation have you to give for its not having faulted the discovery vein?

A. There is a termination some place where all faults end. This particular fault is not represented by one distinct plane, but by two or three, I think by three, that branch in the No. 2 tunnel into 3 branches, and it would not be expected to continue to a great distance beyond that.

Recross-examination.

(By Mr. GRAY.)

Q. If you will come over to this plat, you have undertaken to connect up a vein over in the No. 2 tunnel, with one which is shown near Station 320. Where did you find that in the crosscut on the No. 3 level? A. May I show it on the model?

Q. Yes, I would be glad to have you point it out. Show it on your map first.

A. It comes right under the workings above.

(Testimony of Walter H. Wiley.)

The vein which is faulted by the winze is there; in the No. 3 level, right exactly where you would expect to find the extension, there is a vein.

Q. What is its strike? Get your notes on that.
[491]

A. I have that marked north 50 degrees west and a dip of 65 degrees at the south side.

Q. And at the north side.

A. Fifteen degrees from vertical.

Q. And you thought that was the same vein, did you, the Black Tail vein?

A. I think it is probable.

Q. Has any work been done on it?

A. No, none at all.

Q. How thick is it?

A. There is a very pronounced vein, but not over a foot in thickness.

Q. How much of that is quartz?

A. I do not recall exactly. There is some quartz in the vein.

Q. How much of it is gouge?

A. There is a great deal of gouge, and grooves indicating movement.

Q. Now, let us see where that is in the No. 4 crosscut. Do you find it there?

A. The No. 4 crosscut is way over here. This vein in No. 3 is there, so that if it came in No. 4, it would be back just about where the fault comes in if it continued on its downward course.

Q. Do you find it?

A. No, I did not identify anything very de-

(Testimony of Walter H. Wiley.)

finitely. There is a vein farther back in the cross-cut, quite a distinct vein.

Q. That is, back here where these two red lines are? [492]

A. I do not identify that with the development.

Q. Why?

A. It is not similar in position or character.

Q. Well, anyway, you did not find it on the No. 4? A. No.

Q. And you looked for it? A. I looked for it.

Q. Did you find it on the No. 6?

A. I find this fault—

Q. No, I didn't ask you about the fault.

A. But the Black Tail vein itself, would not, if it continues, appear in those levels.

Q. Why?

A. It would be back of those levels as shown by my pointer No. 2, and you would not expect to find it in any of these deeper levels.

Q. On that level there? You say it would not reach that level?

A. It would be 100 feet back of that level if it continued at this depth. I am holding my pointer as nearly as I can on the line connecting the winze and the exposure in the No. 3 level. [493]

Q. Now, you give me the course, north 50 west, south 50 east, and let us see.

A. If you take the course as known above, which you should, the course of that particular shoot is—

Q. The more particular one is the No. 3?

A. To the south.

(Testimony of Walter H. Wiley.)

Q. South 50 east?

A. If it kept that course it would be still here—

Q. On the No. 6 level, put it down.

A. It might intersect this level, No. 6 level, at some point on the foot.

Q. You do not find it?

A. I find nothing there except the fault itself.

Mr. GRAY.—That is all.

Mr. COLBY.—That is all.

Witness excused.

Mr. COLBY.—That concludes the defense.

Mr. GRAY.—I want to call Mr. Searles in rebuttal.

Mr. COLBY.—Those exhibits, of course—

Mr. GRAY.—They are all received, Mr. Colby.

Mr. COLBY.—Received. I believe rocks have no numbers.

The COURT.—They are referred to by the numbers on them, I suppose.

Mr. COLBY.—Yes, I think that is sufficient.

Mr. GRAY.—Suppose we take a recess for 10 minutes.

The COURT.—All right.

(Thereupon a recess was taken.) [494]

Thereupon the following evidence was introduced in rebuttal on behalf of the plaintiff:

**Testimony of Fred Searles, Jr., for Plaintiff (In
Rebuttal).**

FRED SEARLES, Jr., called as a witness in rebuttal on behalf of plaintiff, testified as follows:

Direct Examination.

(By Mr. GRAY.)

Q. Mr. Searles, did you in your examination observe the fault that has been described here by the witnesses for the defendant?

A. I observed the gouge which is coincident with the line that has been described as this fault in certain places.

Q. Will you now describe that, using any of these maps that you wish, describe the character of it, the throw along it as you observed it, and its effect upon the discovery vein, if any, and such explanation as may be proper in your judgment?

A. The gouge which as I understand is supposed to represent the plane of movement of this fault is mapped on the 10 scale map, Plaintiff's Exhibit 4, on the footwall of the vein opposite Station 326. In making this map I had supposed and think it is entirely probable yet that that gouge continued out to the point C, because there is gouge across the crosscut east of 320-A which lines up exactly with it, and that gouge is also shown further out also lining up with it. However, I am not at all sure that part [495] of that gouge does not turn around to the point B' as it mapped on the maps

(Testimony of Fred Searles, Jr.)

of the defendant, in which case there would be a turning.

Mr. COLBY.—Will you label that with an 8, that line that you put on?

A. There are in this immediate vicinity other gouges, one passing right through the Station 320-B and another one through Station 320, and another one in the same adit a little northerly of the showing of that adit on this map. These gouges are all comparable, but the gouge at B is the heavier gouge. I did not think of that as being anything different from a small postmineral fault along the footwall of the vein, a gouge on a footwall or hanging wall being a common thing in this district and in all districts on veins.

Now, if this gouge which may be traced clearly for some distance lying right on the footwall of the vein exposed at 327 and beyond the limits of that 10 scale map for some distance further on the footwall of the vein, if that gouge is also represented in the drift along 331, there is a very decided turn in the gouge itself, and I would like to point that out, because it seems to me that it shows that the turn in that vein is not referable to the drag on a fault because the fault itself turns. It is true that when veins come against large faults we often have them turn off parallel to the fault and exhibiting a curvature and dragged toward it, but in this instance the fault itself is curved, the gouge is curved, and to my mind the vein has dragged the fault. That is to say, [496] the

(Testimony of Fred Searles, Jr.)

gouge and slip there represents nothing more than a little postmineral rubbing along the vein where the vein is curved, so that the fault is curved following the vein.

Now, certainly either that is the case or the fault branches and crosses the adit where shown by the blue line immediately northeast of 64-C where a gouge crosses the adit. If that be the line of any considerable fault, it may easily be seen from this fault. The fault, if it continued, would have to cross either the No. 1 tunnel or the Pearl tunnel.

Q. Just point to those and show—

A. The line of that fault in that case would be about as I now hold my pointer, and it is obvious that that fault could not escape passing through either the No. 1 tunnel or the No. 2 Pearl tunnel or faulting the No. 4 vein.

While I have made no especial search for that fault in any of those workings, because, frankly it never occurred to me that such a fault could be supposed to exist, I have mapped those workings with sufficient care, so that if any large fault making a stress comparable to what would be expected from a fault of the magnitude of 100 feet occurred, I certainly would have seen it, and I think I can testify that no fault of that magnitude crosses those workings. [497]

Q. Is there a fault of any considerable magnitude across either of these workings? A. No, sir.

Q. Go ahead.

A. Further, it is very plain from the model, Ex-

(Testimony of Fred Searles, Jr.)

hibit 29, that this fault would have of necessity, if continued, faulted the discovery vein. And, while the discovery vein is not a very large matter, it is traceable and it is very certain indeed that no fault of considerable magnitude crosses it within the limits of the Lone Pine claim. The Surprise fault could not possibly avoid faulting that discovery vein, unless it had a turn in either its dip or strike of at least 90 degrees.

Q. Could a fault of the magnitude described, over 100 feet vertical throw, die out in the short distance between that No. 2 working where our friends upon the other side have identified it, and the discovery vein?

A. In all the experience I have had with faults, in this ground and any other ground, I have never known of a fault with a displacement as great at 100 feet, to die out as rapidly as that, unless it were cut off by some other fault, the existence of which I have no knowledge of in this ground.

Q. Is that all?

A. In that connection, I might describe the fault which cuts the Black Tail vein right at the stope labeled "Black Tail Stope," as platted yellow on that model, Exhibit 29. That fault is clearly shown at the head of the Black Tail winze. It has a displacement not to exceed 20 feet. The Black Tail vein on each side of it being plainly discernible, [498] so that the amount of displacement can be known. That fault has only a displacement of 20 feet, yet it is an exceedingly well-marked feature in

(Testimony of Fred Searles, Jr.)

this ground. It may be seen at the drift about 150 feet long, which has been dug on it. It has attracted the attention of the miners and if I might be allowed to speculate as Mr. Wiley did, about the workings under water, which I have not seen, it certainly seems likely that the principal part of those workings have also been done on that same fault. That is, the extension of this working is exactly in line with its strike and dip. Now, I was interested enough in that fault to examine and follow it on its strike or to examine the ground in the direction of its projection to the southwest into the Surprise mine, and there is in the Surprise mine, exactly in line with that fault, a fault which cuts and displaces the Pearl-Surprise vein, a distance almost exactly the same as that shown on the Black Tail vein where this fault cuts it; and we ran a crosscut on the southerly side of the fault which shows there and picked up the vein displaced 20 feet and developed 100 feet of twenty dollar ore. So that it is my opinion that that fault at least does not stop against the Pearl-Surprise vein, but cuts it, displaces it; and I am certain that a fault which winds up with it and is parallel to it on a different strike does do that.

Q. Does that show that these faults in this territory do not die out, but have some continuity?

A. It shows that that fault does not, and I would be very much surprised to find a fault with a displacement five times as great as that dying out in a short distance. Now, I [499] might say one

(Testimony of Fred Searles, Jr.)

word further about gouges which occur along the course of veins. They are an extremely common feature. Nearly all veins have them and they represent often not any important movement but simply a little rubbing or slight shock; because a vein in the ground is like a crack in a plate—it is a plane of weakness, and any stress which comes upon that ground is apt to produce a little yielding or motion along the wall of the vein. And that, I fully believe, is the cause of the attrition product and gouge which are shown on the walls of the vein in the area mentioned in the No. 2 tunnel. There is one effect which can be produced by a strike fault of that kind, which may on the surface of it look rather important. For instance, if we consider the stope which departs from the hanging-wall of the Black Tail vein on No. 1 tunnel level, shown as a branching stope in this model exhibit 29—and I might say incidentally that that stope is incorrectly shown on this model, because up to approximately the limit of it it should not be shown with a gap which occurs here between the two stopes, that is to say, that way, and the stope which has received it, come right up against the main Black Tail vein so that you can jump off of one stope onto the other. Now, suppose that there were a slight motion producing a very little gouge along that hanging-wall of the main Black Tail vein at that point, even though the displacement were very slight indeed, it might produce the apparent effect of a cutoff on that vein. I see here Plaintiff's Exhibit 18, a

(Testimony of Fred Searles, Jr.)

sketch which I understand is intended to represent that point, and which represents it rather diagrammatically. Suppose that along the main Black Tail vein shown here, there were produced a gouge by a relatively [500] small movement or along the trench, to the right, there were produced a gouge by a little motion on the hanging-wall so that we have, where the blue lines are now shown a gouge. We might have these branch veins which were simply branches from that vein, coming right up to it and curving around, after the production of that gouge, apparently to the right on the gouge; and from the local appearance right there, one would be unable to say that that was not a feature which had been faulted some distance along there because one would see the strands of this quartz abutting and perhaps curved along as though dragged on that wall. And still that might not be the real explanation of it. Now, sometimes it is rather difficult, to tell where two veins come together and there is a gouge on the wall of them, whether these veins have joined and simply separated by the walls, or whether they have been faulted. I might say that is one of the intricacies which cause so much trouble in Butte, and when we do have trouble of that kind and wish to determine what is the cause, we try to find out the effect of that gouge on any other features where it intersects in such a manner that the displacement can be measured so that where, as in this instance, we have a similar case of a gouge following along the wall and intersecting so slight

(Testimony of Fred Searles, Jr.)

an angle that it becomes difficult to say what the displacement is of it, if it has any, the thing that I would do as a geologist would be to try to follow that gouge and see where it cuts and intersects, in order to have some datum for measuring its displacement. And, in following that gouge where—following the line of it, I mean, which [501] I think represents a fault of small magnitude—I think so because I can't find it faulting any of these continuous features farther to the north or disturbing in the slightest degree the Pearl-Surprise vein which runs out the other way—and I think it entirely improbable that a fault with the displacement which is postulated for this one could exist in the ground without disturbing features either to one side of it or the other.

Q. Mr. Searles, did you examine the lower working here which my friends upon the other side have spoken of as the "Black Tail Vein at 64-C"?

A. I have examined the short drift there; I have never examined the winze. In fact, knew nothing about the winze, except that there was a hole full of water there, until I heard the testimony in this case.

Q. In your judgment, is that a part of the Black Tail vein? A. I think it is; yes.

Q. Just explain why you think so.

A. I think that that represents a little branch of the Black Tail vein similar to the other branches that we know of and even in the limits of the modern development shown upon it there, it appears to be

(Testimony of Fred Searles, Jr.)

stronger as one approaches the south vein and to diminish in strength as one goes to the face of the little drift.

Q. Is there any justification in your judgment for the attempt to correlate that with the little vein found in Pearl tunnel No. 2?

A. I never thought of a correlation, but I would be [502] skeptical about it, particularly because to the best of my recollection the surface above that on its dip for a portion of the distance between is not covered by wash but is exposed, and I have no recollection—in fact, I think I can say quite positively that there is no exposure of any vein of any magnitude along the strike of it. [503]

Q. In the working which has been referred to as 331½, can you get a strike of that quartz there in any manner? A. Yes.

Q. How?

A. The way I did it was to take a tape-line across the back of the drift where the quartz shows and measure the direction of the tape-line when stretched between two points at the same level on the quartz.

Q. As you enter that drift on the right-hand side, where is the quartz?

A. As you pass Station 331½, the quartz is down near the bottom of the drift, exposed in the side.

Mr. COLBY.—I thought I asked Mr. Searles about that quartz. In which working is he talking about?

Mr. GRAY.—About this working here.

Mr. COLBY.—I asked him particularly about

(Testimony of Fred Searles, Jr.)

that. I am pretty sure of it, didn't I, Mr. Searles?

A. My recollection is that I testified about that.

The COURT.—That is my impression.

Mr. GRAY.—What I want to get at, he testified that there was quartz there. What I want to show is just where this quartz is near the place of that working.

A. The main body of the quartz near the face of the working is overhead. At the present time it is practically obscured by timbering, but unless the timbering is changed since I left there it can still be seen. It is a considerable body of quartz immediately underlying the wash. [504]

It is overhead and back of the drift, and it is continuous as a streak of quartz with the quartz which shows near Station 331½ near the floor. In the face of that drift there is also quartz, but it has not that streak. There are two streaks shown. One part was upon the face just parallel in strike to the one in back and another small streak which cuts diagonally across it.

Q. That shows that the working is cutting diagonally across the quartz which is exposed there, doesn't it?

A. I don't see how there can be any question about it.

Cross-examination.

(By Mr. COLBY.)

Q. Mr. Searles, you have stated that it would be rather uncommon for a fault to turn either in dip or strike to an angle of nearly 90 degrees?

(Testimony of Fred Searles, Jr.)

A. I don't think I stated that.

Q. Well, do you desire to state that?

A. I think it is uncommon, yes, for a fault of considerable magnitude.

Q. Do you recall the Siebert fault in connection with the Jim Butler vein? A. Yes.

Q. That had some very remarkable convolutions, didn't it, and windings in its course?

A. I think you have it mixed up. The Jim Butler vein, the fault was fairly straight.

Q. Didn't we start a raise there in order to find the fault above the vein, and found the fault turning at a [505] very sharp angle before we reached it?

A. Well, I certainly cannot remember any sharp angles in it.

Q. How do faults ordinarily die out?

A. I think the most common method of their death is by dissipation.

Q. That is frequently the difficulty with a good many people, but are there other ways in which faults die out?

A. Yes, sometimes faults die out without becoming dissipated into several strands by being faults in which there is sort of a scissors movement.

Q. A rotational movement?

A. A rotational movement; yes, sir.

Q. And is it not also a fact that faults frequently die out or lose their identity by meeting other faults and being turned off in the direction of other faults?

A. You mean being faulted by other faults?

(Testimony of Fred Searles, Jr.)

Q. Yes, and the motion going along on the planes of other faults because they are planes of weakness?

A. Yes, I think that perhaps is not so very common, but it certainly occurs.

Q. And faults also die out by the fingering out or branching out sometimes in two or more branches?

A. That is what I mean by dissipation. But I might add that I never knew of the early death of any 100 foot fault by any one of these methods within the distance in question here. [506]

Q. How about this fault that you have described in the Black Tail workings intersecting the vein? That was which fault which you described in detail?

A. The one I was concerned with chiefly was the one at the head of the Black Tail winze.

Q. Referring to that fault, what was the direction of that movement?

A. The southerly side dropped.

Q. And what is the total displacement in the direction of movement? A. I think about 20 feet.

Q. How would you determine that?

A. What I was thinking of was the displacement, the shortest displacement perpendicular to the dip of the vein. If that were a dip shift fault, the actual displacement between two points formerly adjacent would be that same distance times the cosign of the dip.

Q. In other words, to determine the actual displacement where you have a homogenous rock, you would take the two segments of the vein which you have, and you would take the data upon which you

(Testimony of Fred Searles, Jr.)

base your measurements and the direction of motion as shown by the movement of the fault, would you not? A. Yes, sir.

Q. Where you have a homogenous rock of that sort and a fault, what is the best test for measuring the movement along the fault?

A. Well, the exact determination of movement on a fault of homogenous rock would depend on determining the displacement [507] on two recognizable features, that is two recognizable planes which were not parallel, either dykes or veins or something to measure by.

Q. Something that is known and has been displaced? A. That is correct.

Q. And if you should have more than two features to check on, that would be even a stronger basis upon which to found your conclusion as to the throw of the fault, would it not?

A. Yes; the more recognizable planes found parallel with a fault, parallel upon parallel that the fault intersects and which can be carefully measured and their displacement exactly determined, the more exact information you have as to the displacement on that fault.

Redirect Examination.

(By Mr. GRAY.)

Q. I suppose you do not do that by reasoning, though. You do it by actual measurement?

A. That is, of course, worthless unless the premises are sound.

(Testimony of Thomas Ryan.)

The COURT.—I think that is self-evident.

Witness excused.

Thereupon an adjournment was taken until 10 o'clock A. M. Friday, August 27, 1920. [508]

Testimony of Thomas Ryan, for Plaintiff (In Rebuttal).

THOMAS RYAN, called and sworn as a witness in behalf of the plaintiff, testified as follows:

Direct Examination.

(By Mr. GRAY.)

Q. What is your name? A. Thomas Ryan.

Q. And you reside in Spokane? A. Yes.

Q. You were one of the locators of the Lone Pine claim? A. I am.

Q. You and Mr. Creasor located it?

A. Yes, sir.

Q. Do you remember the date?

A. No, I do not exactly.

Q. It was in the early spring, in the month of February—I will assist you, in the month of February of 1896? A. 1896, yes.

Q. Would you know how it looks on the map?

A. No, sir, I have not seen it on the map. I have seen it on the ground.

Q. Do you remember where Eureka Gulch is?

A. No, sir.

Q. Well, you helped to locate the Pearl and the Surprise claims? A. Yes, sir.

Q. And the Last Chance claim? A. Yes, sir.
[509]

(Testimony of Thomas Ryan.)

Q. Come over here and I will show you the claims. We are all agreed that this is the way they lay now. Do you know the Black Tail claim too?

A. Well, I was on the Black Tail ground.

Q. This is the Black Tail, and here is the Lone Pine, and over to the east is the Last Chance, and over to the west is the Pearl and the Surprise. Does that look all right to you?

A. I could not say. I am not educated enough to understand the map.

Q. Now, Mr. Ryan, you remember where you saw croppings? Were you there at the time the claim was located?

A. I was on the ground the time the claim was located.

Q. Who made the discovery on the Lone Pine?

A. We were both together on the Lone Pine.

Q. When you made the discovery? A. Yes, sir.

Q. Where did you find this vein cropping first?

A. Well, sir, we found it on where the discovery claim was located, the Lone Pine claim.

Q. You were both up there together?

A. Both came there about the same time.

Q. Do you remember seeing a cropping there, right above this creek that ran across the claim?

A. That little draw that came down between the Black Tail and the Lone Pine?

Q. Yes.

A. Yes, sir.

Q. Did you see that cropping at that time? [510]

A. Which cropping?

(Testimony of Thomas Ryan.)

Q. The cropping of the vein, a quartz cropping, just up the hill to the north of that little draw?

A. Yes, on the Lone Pine side?

Q. Yes. A. Yes, sir.

Q. You saw that at that time? A. Yes.

Q. That quartz cropping stood of the ground a good ways, didn't it?

A. Yes, sir; and I covered it with the north end of the Last Chance stake.

Q. You did some work there at that cropping, didn't you, a short time later, you and Mr. Creasor?

A. I don't know whether Mr. Creasor was with him. I looked around the spot different places. I could not tell you exactly, because it has been quite a number of years, about 24 years.

Q. But there was some quartz cropping, on which you did some work?

A. There was some quartz cropping back of the blacksmith-shop. The ground was patented.

Q. How far from the blacksmith-shop?

A. I don't know exactly.

Q. Just a little ways? A. Yes, sir.

Q. You saw the patent plat. You would know it on the patent, wouldn't you? [511]

A. No, I have never seen the patent.

Q. Near a blacksmith-shop, was it?

A. Near the northeast of the blacksmith-shop.

Q. Right near the blacksmith-shop, anyway?

A. Yes, sir.

Q. And that cropping you saw when you located the Lone Pine claim?

(Testimony of Thomas Ryan.)

A. When I located the Last Chance and going across with the Last Chance line, I seen the cropping and I ran my—located my stake in on the Lone Pine ground to make a lap.

Q. You located the Last Chance the day after you located the Lone Pine?

A. I could not tell you whether I located the Last Chance the day after, or the Surprise.

Q. But it was about the same day?

A. About the same day.

Q. Now, when you went back there, that is where you did the first picking around at that quartz cropping near the blacksmith-shop?

A. No, not the first time.

Q. Where did you do the picking the first time?

A. I done picking over here. I don't know whether it was the first time, or what time it was; I could not say.

Q. You did do some work on that claim, on this quartz cropping, near where the blacksmith-shop was?

A. I did some picking there, but I could not say positively how much work I done.

Q. I am not asking you how much you did. Now, when you located the Lone Pine claim you located it northerly and [512] southerly, didn't you?

A. That is the way I thought it was.

Q. What made you think so, Mr. Ryan?

A. Because that is the way the ledges run.

Q. Did you see an outcropping there?

A. I did, and I located the Last Chance there.

(Testimony of Thomas Ryan.)

Q. That would be the day after you located the other? A. I don't remember.

Q. On the day you located the Last Chance, anyway, you could see the croppings at various places running up and down? A, I could, sir.

Q. In a northerly and southerly direction?

A. I would not say.

Q. The way you located the claim, anyway?

A. Yes, the way I located the claim, I located it to take that in.

Q. You knew where the Black Tail was at that time?

A. I knew the Black Tail afterwards. I didn't know whether it was the Black Tail at the time or not.

Q. But you knew there was such a claim over there? A. Yes, sir; I seen some stakes there.

Q. Before you located the Lone Pine?

A. No, I won't say that, because we located the Iron Mast first, and I think another claim south of that which is called the Iron Clad, I am not positive, and then went to the northwest stake of the Iron Mast, and then swung and came down there by Mud Lake or by Knob Hill, I would not be sure, and came around, and I don't know but what we might have went to the Tom Thumb mine, and coming back later, [513] we both struck on to the croppings of the Lone Pine, and there was a tree there, and we marked on the tree.

Q. Did you see Mr. Welty up there that day, the man who owned the Black Tail claim?

(Testimony of Thomas Ryan.)

A. I don't remember of seeing him that day.

Q. Did you see him the next day when you located the Last Chance?

A. Well, when I located the Last Chance, there was no dispute between the Last Chance and the Black Tail. It was between the McCawber and the Last Chance.

Q. Now, Mr. Ryan, you knew Mr. J. C. Ralston and have known him for a long time. A. Yes.

Q. You know Mr. Wourms, this gentleman standing right here?

A. I don't remember. I might have seen him.

Q. Don't you remember, up in the Davenport Hotel a few months ago, that you told Mr. Wourms and Mr. Ralston in my presence that the first quartz you found on the Lone Pine claim was just above the creek where your blacksmith-shop afterwards was placed?

A. Where the first quartz was found, where the Lone Pine tree, or the Lone tree, I don't know whether it was a pine or a fir, because I didn't examine it closely at that time.

Q. Didn't you tell us that you followed float on up to the top of the hill where the Lone Pine Tree was, and then followed float clear on up to the end-line?

A. No, sir; not to my knowledge.

Q. You did not tell us that?

A. I don't believe I did. [514]

Q. There is a strong cropping of quartz down here near where your blacksmith-shop ultimately was placed?

(Testimony of Thomas Ryan.)

A. I don't know how much quartz there is. There is quite a showing.

Q. And that was visible to you when you located the claim?

A. When I located the Last Chance?

Q. That would be on the 29th?

A. Whatever date it was, I don't know.

Q. Was that the day you staked the Lone Pine?

A. Well, now, I wouldn't be positive. I wouldn't say whether I had put any stakes on at the time we discovered the Lone Pine. Mr. Creasor made the remark, "We are on quartz," and I says, "yes."

Q. Anyway, the day you located the Last Chance, you knew of this quartz outcrop, near the place where the blacksmith-shop afterwards was?

A. I crossed up and put my stakes on the Last Chance.

Cross-examination.

(By Mr. COLBY.)

Q. The Lone Pine was already located at that time? A. Yes, sir; at that time.

Q. That was at the time you saw these croppings first back of the blacksmith-shop, the Lone Pine had already been located, hadn't it? A. What?

Q. At the time you saw these croppings near the blacksmith-shop, the Lone Pine had already been located? [515]

A. Why, certainly the Lone Pine had been located.

Q. The location of the Lone Pine was made at a little tree, you say?

A. I don't know whether it was a pine or a fir tree.

(Testimony of Thomas Ryan.)

Q. How high was it where it was cut off?

A. It was cut off pretty high. I couldn't tell you the exact height.

Q. And right close to that did you see any quartz?

A. Did I see any quartz—I was standing on quartz.

Q. So that your discovery was right near that little tree?

A. Yes, sir; the discovery was right near that little tree.

Q. Your notice was put on the tree?

A. There was notice put on the tree.

Q. Mr. Creasor wrote the notice on the tree?

A. I don't know whether he wrote the notice that night or not. I can't say positively.

Q. He was the one that cut down the tree?

A. I wouldn't swear to that, whether it was him or me.

Q. Your memory is not there on that point?

A. Not on that point, sir, it is not. Mr. Creasor was more on the ground at the present time because he was wrapped up in the Lone Pine.

Q. He was wrapped up in the Lone Pine? How was he wrapped up in it?

A. Well, he thought a great deal of it. [516]

Q. Did you ever find any other veins there on the Lone Pine besides your discovery vein?

A. Did I ever find any?

Q. Yes.

A. Spurs and fibres running all through.

Q. When did you do your first staking—or mining, on it? A. In what way? On the Lone Pine?

(Testimony of Thomas Ryan.)

Q. In the way of sinking a shaft, or doing any work. A. I don't remember whether it was—

Q. Was that right away or some time after?

A. It was quite a while after, I think.

Q. About how long would you say?

A. I couldn't say, sir.

Q. You are quite sure though that you had not seen this big vein here at the time you made your location?

A. That big vein do you have reference to?

Q. The main vein. A. Where is the main vein?

Q. Don't you know the veins up there?

A. I know the veins, but there is so many veins I don't know what you call the main veins.

The COURT.—The one that has been worked.

Mr. COLBY.—The one that has been worked most. A. The Lone Pine?

Q. Yes.

A. When I located the Last Chance and Surprise [517] I bonded my interest to Mr. Jim Clark and then Mr. Clark had done the work on the mine and he wanted Mr. Creasor and a man by the name of—he was an assayer—come on work with Mr. Creasor, and I was working on the Republic. I had nothing to say. Jimmie Clark come in and wanted me to go to work on the Lone Pine, and I told him no that I had nothing to do with it, that I had bonded my interest to Mr. Jim Clark.

The COURT.—We don't care for that.

Q. Mr. Creasor had more to do with the Lone Pine and knew more about it than you did, didn't he? A. Yes, sir.

(Testimony of Thomas Ryan.)

The COURT.—Q. What way did you go up there when you located it?

A. Well, sir, I think—I wouldn't be positive, Judge, I think it was located—I think we located the south claim *if* the Iron Mast—

The COURT.—Where is that, what direction is it?

A. That is south of the Iron Mast. I wouldn't be positive whether they call it that or what. And then after putting up stakes on that—we went down and come around the curve—I couldn't say positive whether we went to the Tom Thumb or not, but when we came back it was coming on towards evening when we struck into the croppings of the Lone Pine, where that lone tree was. Whether we staked it that day or the next day, I couldn't say.

Mr. GRAY.—You are still interested in the [518] Lone Pine-Surprise? A. I am, sir.

Mr. COLBY.—I think your Honor can see plainly why neither of us called Mr. Ryan; he is so hazy.

(Whereupon Court adjourned.) [519]

In the United States District Court, Eastern District
of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Defendant.

**Stipulation Re Insertion of Testimony in Question
and Answer Form in Statement.**

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto that in the preparation of the record upon appeal in the above case the full testimony of the witnesses in question and answer form shall be embodied in said record on appeal instead of a narrated statement of all the testimony or of a portion thereof, and that in the preparation of a statement herein, the full record of the testimony in question and answer form shall be embodied in said statement in lieu of narrated testimony.

This stipulation is made in the light of technical features of the case and in the light of the various questions arising from the testimony; and this stipulation is further made subject to the consent of the Judge of the above-entitled court.

Dated this 4th day of May, 1921.

JOHN H. WOURMS,
JOHN P. GRAY,
Attorneys for Plaintiff.
WM. E. COLBY,
FRED S. DUGGAN,
Attorneys for Defendant.

Filed in the U. S. District Court, Eastern District
of Washington. May 16, 1921. W. H. Hare, Clerk.
[520]

In the United States District Court, Eastern District
of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Defendant.

**Order Approving Stipulation Re Insertion of Testi-
mony in Question and Answer Form in State-
ment.**

Upon reading the foregoing stipulation, and being familiar with the record in this cause and believing that in the light of the technical features of the case and the various questions arising from the testimony that it is desirable and of advantage that the full testimony in question and answer form may be embodied in the record in lieu of a statement in narrative form, the foregoing stipulation is approved, and I hereby consent and approve of the embodiment in said record on appeal of the testimony in question and answer form.

Dated this 9th day of May, 1921.

FRANK H. RUDKIN,
Judge.

Filed in the U. S. District Court, Eastern District
of Washington. May 16, 1921. W. H. Hare, Clerk.
[521]

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Defendant.

**Stipulation Settling and Approving Statement of
Evidence.**

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto that the annexed statement of the evidence may by the Court be settled, allowed and approved as correct.

Dated this 9th day of May, 1921.

JOHN H. WOURMS,

JOHN P. GRAY,

Attorneys for Plaintiff.

WM. E. COLBY,

FRED S. DUGGAN,

Attorneys for Defendant.

Filed in the U. S. District Court, Eastern District of Washington. May 16, 1921. W. H. Hare, Clerk.

[522]

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Defendant.

Order Settling Statement of Evidence.

The foregoing statement of the evidence and proceedings in the above cause paged from 1 to 519, inclusive, is in due time presented to the Judge of this court.

It appears that the parties have stipulated that the record be prepared in question and answer form and the Court has approved of such stipulation because of the nature of the case. And the undersigned Judge does hereby certify that the foregoing statement contains all of the evidence introduced upon the trial of said action and all of the proceedings had on said trial and the same is approved and settled as a true, complete and properly prepared statement of the evidence and proceedings in said case, excepting only the exhibits, and it is ordered that all exhibits referred to in said statement shall be deemed a part hereof the same as if fully set forth herein, to be separately certified by the clerk of this

court and upon any appeal to be by him transmitted to the United States Circuit Court of Appeals for the Ninth Circuit.

Dated this 9th day of May, 1921.

FRANK H. RUDKIN,
Judge.

Filed in the U. S. District Court, Eastern District of Washington. May 16, 1921. W. H. Hare, Clerk.
[523]

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,
Defendant.

Stipulation Re Original Exhibits.

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto that all exhibits in said cause may in their original form be considered a part of the statement of the evidence and the proceedings of the court to be settled by the Judge of the above-entitled court, and that all of said exhibits of whatsoever kind and character may, in their original form, be certified by the clerk of the above-entitled court to the clerk of the Circuit Court of

Appeals of the United States for the Ninth Circuit, as a part of the record on appeal in the above-entitled action, said exhibits to be considered by the United States Circuit Court of Appeals for the Ninth Circuit, aforesaid, in the consideration of the appeal in the above-entitled action.

Dated this 4th day of May, 1921.

JOHN H. WOURMS,
JOHN P. GRAY,
Attorneys for Plaintiff.
WM. E. COLBY,
FRED S. DUGGAN,
Attorneys for Defendant.

Filed in the U. S. District Court, Eastern District of Washington. May 16, 1921. W. H. Hare, Clerk.
[524]

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,
Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,
Defendant.

Assignment of Errors.

Comes now the plaintiff and files the following assignment of errors upon which it will rely upon the

prosecution of its appeal from the decree made by this Honorable Court on the 14th day of December, 1920, in the above-entitled cause:

I.

The Court erred in not holding that the Black Tail vein within the Lone Pine claim was a primary vein or original vein.

II.

The Court erred in finding, holding and deciding that the Black Tail vein within the Lone Pine claim is a secondary or incidental vein.

III.

The Court erred in holding and deciding that there could be but one primary, original or principal vein within a mining claim.

IV.

The Court erred in not holding that the Black Tail vein, at its top or apex, entered the south end-line of the Lone Pine claim and passed out of the east side-line thereof at a point 589 feet from the southeast corner of said claim, and that the vein, being known at the date of location of the Lone Pine claim, the extralateral rights thereon became fixed and the end-lines of the claim as located became the end-lines for extralateral rights upon all veins.
[525]

V.

The Court erred in not holding and deciding that the Black Tail vein entered the south end-line of the Lone Pine claim and departed therefrom at a point 589 feet from the southeast corner.

VI.

The Court erred in not holding that where a vein,

known at the date of discovery and location of a claim, extends through one end-line of that claim that the extralateral rights upon that vein and all other veins are controlled by the end-lines of the claim as located.

VII.

The Court erred in finding, holding and deciding that the defendant was entitled to any part of the Black Tail or No. 2 lode, vein or ledge beneath the surface of the Last Chance claim and between vertical planes, one drawn downward through the south end-line of the Lone Pine claim extended in its own direction easterly, and the other parallel thereto and passing through the east side-line of said Lone Pine claim at a point 589 feet from the southeast corner thereof, measured along said side-line, and in not decreeing said vein within said planes beneath the said Last Chance claim to belong to this plaintiff.

VIII.

The Court erred in making and entering its decree herein in favor of the defendant and in dismissing the bill of complaint of the plaintiff.

IX.

The Court erred in not holding, finding and deciding that the ore bodies in controversy beneath the surface of the Last Chance claim were a part of the Black Tail vein, the top or apex of which was within the Lone Pine claim and that the said claim was so located with reference to the said vein that the said ore bodies were a part of the Lone Pine claim and the property of the plaintiff. [526]

WHEREFORE, the plaintiff, Northport Smelt-

ing and Refining Company, prays that the said judgment and decree of the said District Court of the United States for the Eastern District of Washington, Northern Division, be reversed.

JOHN H. WOURMS,

JOHN P. GRAY,

Attorneys for Plaintiff.

Service of the foregoing assignment of errors admitted and a copy thereof received this 4th day of May, 1921.

WM. E. COLBY,

FRED S. DUGGAN,

Attorneys for Defendant.

Filed in the U. S. District Court, Eastern District of Washington. May 16, 1921. W. H. Hare, Clerk.
[527]

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Defendant.

Petition for Appeal and Order Allowing Same.

To the Honorable FRANK H. RUDKIN, Judge of
the United States District Court, Eastern Dis-
trict of Washington, Northern Division.

The above-named plaintiff, Northport Smelting and Refining Company, considering itself aggrieved by the decree entered in the above-entitled cause on the 14th day of December, 1920, in the above-entitled court, does hereby appeal from said decree to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons specified in the assignment of errors which is filed herewith, and prays that an appeal be allowed and a citation issued as provided by law, and that a transcript, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit.

Your petitioner further prays that proper order touching the security to be required in order to perfect its appeal be made, and that upon the filing of a bond in such sum as shall be provided for in the order attached hereto that an order of supersedeas be made herein, and the filing of the bond acknowledged as a supersedeas.

JOHN H. WOURMS,

JOHN P. GRAY,

Attorneys for Plaintiff. [528]

ORDER.

The foregoing petition is hereby granted and the appeal is allowed in the above-entitled cause, and in pursuance of the written stipulation filed herein, it is ORDERED that the amount of the bond on appeal shall be fixed at the sum of Five Hundred Dollars

(\$500), and it is further ordered that said appeal shall operate as a supersedeas, staying execution for costs allowed upon the appellant filing a bond in the sum of One Thousand Dollars (\$1000), with sufficient surety or sureties.

FRANK H. RUDKIN,
Judge.

Service of the foregoing petition for appeal and allowance admitted, and a copy thereof received this 4th day of May, 1921.

WM. E. COLBY,
FRED S. DUGGAN,
Attorneys for Defendant.

Filed in the U. S. District Court, Eastern District of Washington. May 16, 1921. W. H. Hare, Clerk.
[529]

THE AETNA CASUALTY AND SURETY COMPANY,

Hartford, Connecticut.

MORGAN G. BULKELEY, President.

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING & REFINING COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,
Defendant.

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS: That, we, Northport Smelting and Refining Company, a corporation, as principal, and Aetna Casualty and Surety Company, a corporation, duly organized and existing under and by virtue of the laws of the State of Connecticut, having its principal office in Hartford, Connecticut, as surety, are held and firmly bound unto the Lone Pine-Surprise Consolidated Mines Company, a corporation, in the sum of Five Hundred (\$500.00) Dollars, lawful money of the United States of America, to be paid to it and to its successors and assigns; to which payment, well and truly be made, we bind ourselves and each of us jointly and severally, and each of our successors and assigns by these present.

Sealed with our seals and dated this 9th day of May, 1921.

WHEREAS, the above-named Northport Smelting and Refining Company has prosecuted or is about to prosecute an appeal to the United States Circuit Court of Appeals for the Ninth Circuit to reverse a decree made and entered in said cause in the District Court of the United States for the Eastern District of Washington, Northern Division, on the fourteenth day of December, 1920, in favor of the defendant in the above-entitled cause.

NOW, THEREFORE, the condition of this obligation is such that if the above-named plaintiff shall prosecute its said appeal to effect and answer all costs if it fails to make good its plea, then this

obligation shall be void; otherwise to remain in full force and effect.

NORTHPORT SMELTING AND REFIN-
ING CO.

By JEROME J. DAY,
President,

Principal.

[Seal]

Attest: EUGENE R. DAY,

Secretary.

AETNA CASUALTY AND SURETY COM-
PANY,

By FRANCIS E. POPE,
Its Resident Vice-President,

Surety.

[Seal]

Attest: E. P. GABRIEL,

Its Resident Assistant Secretary. [530]

State of Washington,
County of Spokane,—ss.

On this 9th day of May, 1921, before me, G. E. Reed, a notary public in and for the state aforesaid, personally appeared Francis E. Pope and E. P. Gabriel, known to me to be the resident vice-president and resident assistant secretary respectively of the corporation that executed the foregoing instrument and acknowledged to me that such corporation executed the same; that they know the seal of such corporation; that the seal affixed to said instrument is such corporate seal; that it was affixed by the order of the board of directors of said company; that they signed their names thereto by like order; that the said company has been duly licensed by the insurance commissioner of the State of Washington to transact

business in the State of Washington and is authorized by law of the State of Washington to become sole surety upon bonds.

In Witness Whereof, I have hereunto set my hand and affixed my official seal at my office in the City and County of Spokane, State of Washington, this the day and year in this certificate first above written.

[Seal]

G. E. REED,

Notary Public in and for the State of Washington,
Residing at Spokane, Washington.

The premium on this bond is \$10.00 and requires and has attached a documentary stamp of 10¢, being one per cent of the premium in accordance with Title VIII, Schedule A, Paragraph 2, of the Federal War Revenue Act, approved by the President October 3, 1917.

Approved May 17, 1921.

FRANK H. RUDKIN,

Judge.

Service of the foregoing bond on appeal, and the receipt of one true copy thereof, is hereby admitted and acknowledged this 9th day of May, 1921.

WM. E. COLBY,

FRED S. DUGGAN,

Attorneys for Defendant.

Filed in the U. S. District Court, Eastern District of Washington. May 16, 1921. W. H. Hare, Clerk.
[531]

THE AETNA CASUALTY AND SURETY COM-
PANY,

Hartford, Connecticut.

MORGAN G. BULKELEY, President.

In the United States District Court, Eastern Dis-
trict of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Defendant.

Supersedeas Bond.

KNOW ALL MEN BY THESE PRESENTS:
That we, Northport Smelting and Refining Com-
pany, a corporation, as principal, and Aetna Casualty
and Surety Company, a corporation, duly organized
and existing under and by virtue of the laws of the
State of Connecticut, having its principal office in
Hartford, Connecticut, as Surety, are held and firmly
bound unto the Lone Pine-Surprise Consolidated
Mines Company, a corporation, in the sum of One
Thousand (\$1000.00) Dollars, lawful money of the
United States of America, to be paid to it and to its
successors and assigns; to which payment, well and

truly to be made, we bind ourselves and each of us jointly and severally, and each of our successors and assigns by these presents.

Sealed with our seals and dated this 9th day of May, 1921.

WHEREAS, the above-named Northport Smelting and Refining Company has prosecuted or is about to prosecute an appeal to the United States Circuit Court of Appeals for the Ninth Circuit to reverse a decree made and entered in said cause in the District Court of the United States for the Eastern District of Washington, Northern Division, on the fourteenth day of December, 1920, in favor of the defendant in the above-entitled cause.

NOW, THEREFORE, the condition of this obligation is such that if the above-named plaintiff shall prosecute its said appeal to effect and answer all damages and costs if it fail to make good its plea, then this obligation shall be void; otherwise to remain in full force and effect.

It is expressly agreed by the Aetna Casualty and Surety Company, the surety above-named, that in case of a breach of any condition of this bond, the Court may, upon notice of not less than thirty days to said Aetna Casualty and Surety Company, [532] proceed summarily in this action to ascertain the amount which said surety is bound to pay on account of such breach and render judgment against said

Aetna Casualty and Surety Company and award execution therefor.

NORTHPORT SMELTING AND REFIN-
ING CO.

By JEROME J. DAY,
President,
Principal.

[Seal] Attest: EUGENE R. DAY,
Secretary.

AETNA CASUALTY AND SURETY COM-
PANY,

By FRANCIS E. POPE,
Its Resident Vice-President,
Surety.

[Seal] Attest: E. P. GABRIEL,
Its Resident Assistant Secretary.

State of Washington,
County of Spokane,—ss.

On this 9th day of May, 1921, before me, G. E. Reed, a notary public in and for the state aforesaid, personally appeared Francis E. Pope and E. P. Gabriel, known to me to be the resident vice-president and resident assistant secretary respectively of the corporation that executed the foregoing instrument and acknowledged to me that such corporation executed the same; that they know the seal of such corporation; that the seal affixed to said instrument is such corporate seal; that it was affixed by the order of the board of directors of said company; that they signed their names thereto by like order; that the said company has been duly licensed by the Insurance Commissioner of the State of Washington to

transact business in the State of Washington and is authorized by law of the State of Washington to become sole surety upon bonds.

In Witness Whereof, I have hereunto set my hand and affixed my official seal at my office in the City and County of Spokane, State of Washington, this the day and year in this certificate first above written.

[Seal]

G. E. REED,

Notary Public in and for the State of Washington,
Residing at Spokane, Washington.

The premium on this bond is \$10.00 and requires and has attached a documentary stamp of 10¢, being one per cent of the premium in accordance with Title VIII, Schedule A, Paragraph 2 of the Federal War Revenue Act, approved by the President October 3, 1917.

Approved May 17, 1921.

FRANK H. RUDKIN,

District Judge. [533]

Service of the foregoing bond on appeal, and the receipt of one true copy thereof, is hereby admitted and acknowledged this 9th day of May, 1921.

WM. E. COLBY,

FRED S. DUGGAN,

Attorneys for Defendant.

Filed in the U. S. District Court, Eastern District of Washington. May 16, 1921. W. H. Hare, Clerk.
[534]

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Defendant.

Stipulation Re Fixing Amount of Bond on Appeal.

IT IS HEREBY STIPULATED AND AGREED
by and between the parties hereto that the bond on
appeal herein shall be fixed at the sum of Five Hun-
dred Dollars (\$500), with the consent of the Court.

Dated this 4th day of May, 1921.

JOHN H. WOURMS,

JOHN P. GRAY,

Attorneys for Plaintiff.

WM. E. COLBY,

FRED S. DUGGAN,

Attorneys for Defendant.

Filed in the U. S. District Court, Eastern District
of Washington. May 16, 1921. W. H. Hare, Clerk.

[535]

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Defendant.

Stipulation Re Fixing Amount of Supersedeas Bond.

IT IS HEREBY STIPULATED AND AGREED by and between the parties hereto that the supersedeas bond, staying the execution on judgment herein, shall be fixed at the sum of One Thousand Dollars (\$1000), with the consent of the Court, and that all process herein be stayed pending an appeal of the above-entitled action, but in no event shall such bond be interpreted as preserving the *status quo*.

Dated this 4th day of May, 1921.

JOHN H. WOURMS,
JOHN P. GRAY,
Attorneys for Plaintiff.
WM. E. COLBY,
FRED S. DUGGAN,
Attorneys for Defendant.

Filed in the U. S. District Court, Eastern District of Washington. May 16, 1921. W. H. Hare, Clerk.
[536]

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Defendant.

Citation on Appeal.

The President of the United States to Lone Pine-Surprise Consolidated Mines Company, and to W. S. Colby and Fred S. Duggan, its Solicitors:

You are hereby cited and admonished to be and appear before the United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, State of California, within thirty (30) days from the date hereof, pursuant to an appeal filed in the office of the clerk of the District Court of the United States for the Eastern District of Washington, Northern Division, wherein Northport Smelting and Refining Company, a corporation, is appellant, and Lone Pine-Surprise Consolidated Mines Company, a corporation, is appellee, to show cause, if any there be, why the said decree in the said appeal mentioned should not be corrected and why speedy justice should not be done to the parties on that behalf.

WITNESS the Honorable FRANK H. RUDKIN, Judge of the District Court of the United

States for the Eastern District of Washington, this 9th day of May, 1921, and of the Independence of the United States one hundred and forty-five, at the city of Spokane, State of Washington.

FRANK H. RUDKIN,
Judge.

Service of the foregoing citation on appeal acknowledged and a copy thereof received this 4th day of May, 1921.

WM. E. COLBY,
FRED S. DUGGAN,
Attorneys for Defendant. [537]

Filed in the U. S. District Court, Eastern District of Washington, May 16, 1921. W. H. Hare, Clerk.
[538]

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,
Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,
Defendant.

Praeipice for Preparation of Transcript on Appeal.
To the Clerk of the United States District Court for
the Eastern District of Washington:

You will please prepare a transcript on appeal

herein including all of the following papers, to wit:

Final record herein, including the bill of complaint, subpoena in equity, answer of defendant, decree, certificate of clerk.

Also include in said transcript the opinion of the Court in deciding the case, statement of evidence and proceedings, stipulation with reference to the form of the preparation of the record with order attached thereto, stipulation settling statement of the evidence, stipulation that exhibits may be certified in their original form and made a part of the record herein and a part of the statement herein.

Also all exhibits in the case, except the maps, models, photographs, drawings, tracings, blue-prints and samples.

Also assignment of errors, petition for appeal and order allowing the same, bond on appeal, supersedeas bond, stipulations with reference to the bonds, citation and acknowledgment of service, this praecipe and certificate of the clerk.

JOHN H. WOURMS,

JOHN P. GRAY,

Attorneys for Plaintiff. [539]

Service of the foregoing praecipe admitted and copy thereof received this 4th day of May, 1921.

WM. E. COLBY,

FRED S. DUGGAN,

Attorneys for Defendant.

Filed in the U. S. District Court, Eastern District of Washington. May 16, 1921. W. H. Hare, Clerk.
[540]

In the United States District Court, Eastern District of Washington, Northern Division.

No. 3255.

NORTHPORT SMELTING AND REFINING
COMPANY, a Corporation,

Plaintiff,

vs.

LONE PINE-SURPRISE CONSOLIDATED
MINES COMPANY, a Corporation,

Defendant.

Certificate of Clerk U. S. District Court to Transcript of Record.

United States of America,
Eastern District of Washington,—ss.

I, W. H. Hare, Clerk of the District Court of the United States for the Eastern District of Washington, do hereby certify the foregoing typewritten pages to be a full, true, correct and complete copy of so much of the record, papers, stipulations and other proceedings in the above and foregoing entitled cause, as are necessary to the hearing of the appeal therein in the United States Circuit Court of Appeals for the Ninth Circuit as called for by praecipe of counsel of record herein, as the same remains of record and on file in the office of the clerk of said District Court; and that the same constitutes the record on appeal from order, judgment and decree of the District Court of the United States for the Eastern District of Washington, to the Circuit Court of

Appeals for the Ninth Judicial Circuit, San Francisco, California.

I further certify that I hereto attach and herewith transmit the original citation, issued in this cause.

I further certify that the cost of preparing and certifying [541] the foregoing transcript is the sum of Eighty and 35/100 (\$80.35) Dollars, and that the said sum has been paid to me by John Wourms, solicitor for complainant and appellant.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, at Spokane, in said District, this 23d day of May, 1921.

[Seal]

W. H. HARE,
Clerk. [542]

[Endorsed]: No. 3691. United States Circuit Court of Appeals for the Ninth Circuit. Northport Smelting and Refining Company, a Corporation, Appellant, vs. Lone Pine-Surprise Consolidated Mines Company, a Corporation, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Eastern District of Washington, Northern Division.

Filed May 27, 1921.

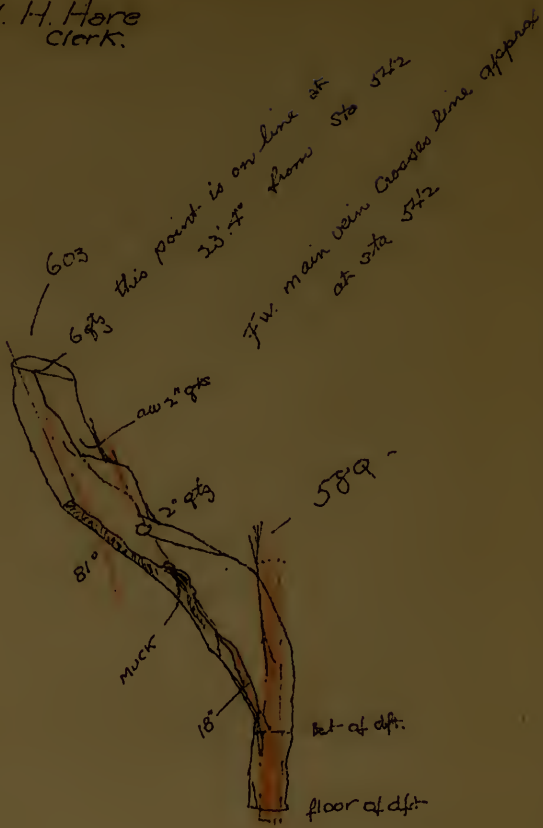
F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.



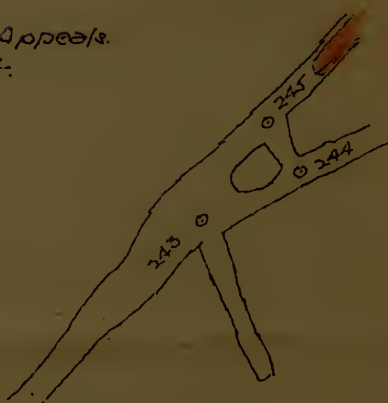
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Filed in the
U.S. District Court
Eastern District of Washington
Aug 27 1920
by W. H. Here
Clerk.



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No. 3691
United States Circuit Court of Appeals
For the Ninth Circuit.
Filed
May 27 1921
F. D. MONCKTON
Clerk.





Plaintiff's Exhibit No. 11.

908545. "B." J. E. V.

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DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,

Washington, D. C.

May 17th, 1920.

I hereby certify that the annexed copies of papers, filed under Mineral Patent 30698, are true and literal exemplifications of the said papers on file in this office.

IN TESTIMONY WHEREOF I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[Seal]

C. M. BRUCE,
Assistant Commissioner of the General Land Office.

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APPLICATION FOR PATENT.

State of Washington,
County of Spokane,—ss.

APPLICATION FOR PATENT FOR THE
"SURPRISE" LODE, "PEARL" LODE,
"LONE PINE" LODE, AND "LAST
CHANCE" LODE MINING CLAIMS, BE-
ING A CONSOLIDATED MINING CLAIM.
To the Register and Receiver of the U. S. Land

Office, at Spokane, Spokane County, Washington.

James Clark, whose postoffice address is Spokane, Spokane County, Washington, being duly sworn, according to law, deposes and says,—

That in virtue of a compliance with the mining rules, regulations and customs by himself and his grantors, he, the applicant for patent herein, has become the owner of, and is in the actual quiet and undisturbed possession of 1499.6 linear feet of the “Surprise” vein, lode or deposit, bearing gold, together with surface ground 521 feet in width, for the convenient working thereof as allowed by local rules and customs of miners, and for 1499.18 linear feet on the “Pearl” lode, bearing gold, with surface ground 504.6 feet in width, for the convenient working thereof, as allowed by local rules and customs of miners, and for 1468.12 linear feet of the “Lone Pine” lode, bearing gold, with surface ground 600 feet in width, for the convenient working thereof, as allowed by local rules and customs of miners, and for 1467.7 linear feet on the “Last Chance” lode, bearing gold, with surface ground 600 feet in width, for the convenient working thereof as allowed by local rules and customs of miners, said four mineral claims be-

ing applied for as a consolidated mining claim, said mineral claims, veins, lodes or deposits and surface ground being situate in Eureka Mining District, County of Stevens and State of Washington, as more particularly set forth and described in the official

field notes of survey thereof, hereto attached, dated September 11, 1897, and in the official plats of said survey, now posted conspicuously upon said mining claims or premises, a copy of which is filed herewith.

Deponent further states that the facts relative to the right of possession of himself to said mining claims, veins, lodes or deposits and surface ground, so surveyed and platted, are substantially as follows, to-wit:

The "Surprise" lode was discovered on or about the 1st day of March, 1896, by T. Ryan and Charles Robbins, who afterwards, and on or about the 8th day of March, 1896, completed a location of the same as a mining claim of the length and width aforesaid, having substantially located the same and otherwise complied with all local rules and regulations, the laws of the State of Washington and of the United States relating to mining claims.

The "Pearl" lode was discovered on or about the 10th day of July, 1896, by Philip Creasor, Charles P. Robbins and James Clark, who afterwards, and on or about the 18th day of July, 1896, completed a location of the same as a mining claim of the length and width aforesaid, having substantially located the same, and otherwise complied with all local rules and regulations, the laws of the State of Washington, and of the United States relating to mining claims.

The "Lone Pine" lode was discovered on or about the 20th day of February, 1896, by Philip Creasor, Thomas Ryan, James Clark and Charles Robbins,

who afterwards, and on or about the 28th day of

February, 1896, completed the location of the same as a mining claim, of the length and width aforesaid, having substantially located the same and otherwise complied with all local rules and regulations, the laws of the State of Washington and of the United States relating to mining claims.

The "Last Chance" lode was discovered on or about the 25th day of February, 1896, by T. Ryan, and Philip Creasor, James Clark and Charles Robbins, who afterwards, and on or about the 29th day of February, 1896, completed a location of the same as a mining claim, of the length and width aforesaid, having substantially located the same and otherwise complied with all local rules and regulations, the laws of the State of Washington and of the United States relating to mining claims.

The said locator Philip Creasor conveyed an undivided one-twelfth ($1/12$) interest in the "Pearl" claim to Charles P. Robbins on September 25, 1896; the said locator Charles P. Robbins conveyed an undivided one-fourth ($1/4$) interest in the "Surprise" claim to James Clark on September 25, 1896; the said locator Philip Creasor conveyed an undivided one-twelfth ($1/12$) interest in the "Pearl" claim to James Clark on September 25, 1896; and the said Philip Creasor, Thomas Ryan and Charles P. Robbins conveyed all their right, title and interest in and to said "Surprise," "Last Chance" and "Lone Pine" mining claims to James Clark on June 9, 1897. And the said Philip Creasor and Charles P. Robbins conveyed all their right, title and interest in and to said "Pearl" mining claim to James Clark, the appli-

cant herein, on the 6th day of July, 1897, who there-upon took possession and is the sole present owner, all of which will more fully appear by reference

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to the copy of original record of location and abstract of title herewith filed. The value of the labor done and improvements made upon said "Surprise" lode, "Pearl" lode, "Lone Pine" lode and "Last Chance" lode mining claims by the applicant and his grantors being equal to and exceeding the sum of Five Hundred Dollars (\$500.00).

Said improvements consist of,—On Lone Pine Lode,—the discovery, \$10.00; a tunnel 4.5' x 6.5' running 118 feet, value \$2360.00; a blacksmith shop 10 x 12', value \$50.00.

On Pearl Lode,—the discovery cut, 5 ft. wide 10 ft. deep, value \$100.00; a boarding cabin 16 x 50', value \$150.00.

On Surprise Lode,—Discovery cut, value \$25.00.

On Last Chance Lode,—Discovery cut, value \$12.00.

Other improvements on "Pearl" lode, a cabin 12 x 14 ft. Total \$2707.00. In consideration of which facts and in conformity with the provisions of Chapter Six, Title Thirty-two of the Revised Statutes of the United States, application is hereby made for and in behalf of said James Clark for a patent from the United States for the said "Surprise" lode, "Pearl" lode, "Lone Pine" lode and "Last Chance" lode mining claims, veins, lodes or deposit and the surface ground so officially surveyed and platted, the same being a consolidated mining claim.

JAMES CLARK,

Subscribed and sworn to before me this 25th day of October A. D. 1897. And I hereby certify that I consider the above deponent a credible and reliable

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person and the foregoing affidavit to which was attached the field notes of survey of the “Surprise” lode, “Pearl” lode, “Lone Pine” lode and “Last Chance” lode mining claims being a consolidated mining claim, was read and examined by him before his signature was affixed thereto and the oath made by him.

[Seal] GEO. M. FORSTER,
Notary Public in and for the State of Washington,
Residing at Spokane, Wash.

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Appli.

Mineral ~~Entry~~ #25. Survey #363. Application for Patent for the “Surprise” Lode, “Pearl” Lode, “Lone Pine” Lode, and “Last Chance” Lode Mining Claims. U. S. Land Office. Spokane, Washington. Filed Oct. 27, 97. Matthew E. Logan, Register.

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M. E. #9 (Colville Series)

Spokane Falls, Wash.

Feby. 8/98.

by

James Clark

App. for Pat. Oct. 27/97.

“ to Pur. Feby. 7/98.

Last Chance lode claim, Lone Pine—Pearl, Surprise.
(4 lodes)

Loc. Feby. 29/96.

Pub. Nov. 4/97 to Jany. 6/98.

Black Tail Inc. 365 excludes all conflict with the Surprise & Pearl=Includes conflict with Lone Pine (363).

Quilp excludes conflict with Surprise.

Macawber includes conflict with Last Chance.

Note.—Last Chance conflict with Macawber included by both (?), Surprise conflicts with Black Tail goes to Surprise, Pearl conflicts with Black Tail goes to Pearl, Lone Pine conflicts with Black Tail goes to Black Tail (?).

1.—Ex. & describe conflict Last Chance with Macawber & Lone Pine with Black Tail (Excl. in appn. to pur.) also waiver of conflict with Black Tail.

2.—Amd. survey reqd. as per waiver above, Y.

Nov. 4

11

18

25

Dec. 2

9

16

23

30

Jany. 8

~~Philip Creaser~~ $\frac{1}{4}$

~~T. Ryan~~ $\frac{1}{4}$

~~James Clark~~ $\frac{1}{4}$

~~Charles L. Robins~~ $\frac{1}{4}$

James Clark 1

} Lone Pine & Last Chance.

Creasor	}	Pearl.
Robins		
Clark		
Ryan— $\frac{1}{4}$	}	Surprise.
Robins— $\frac{1}{4}$		
Clark $\frac{1}{4}$		

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APPLICATION TO PURCHASE.

To the Register and Receiver, United States Land Office of Spokane Falls, Washington.

The undersigned claimant, under the provisions of the Revised Statutes of the United States, Chapter Six, Title Thirty-two, and legislation supplemental thereto, hereby applies to purchase those mining claims known as the "Surprise" lode, "Pearl" lode, "Lone Pine" lode and "Last Chance" lode, being a consolidated mining claim, located on unsurveyed Government land, designated as lot or official survey No. 363, said lot or official survey No. 363, extending 1499.6 feet in length along said "Surprise" vein or lode, 1499.18 feet in length along said "Pearl" vein or lode, 1468.12 feet in length along said "Lone Pine" vein or lode, and 1467.7 feet in length along said "Last Chance" vein or lode, but expressly excepting and excluding from this application all that portion of the ground embraced in mining claim or survey designated as lot or official survey No. 365, the "Black Tail" lode, and also all that portion of any vein or lode, the top or apex of which lies inside of said excluded ground, the ground applied for being shown by a plat made and certified

to by J. C. Ralston, Deputy United States Mineral Surveyor, hereto attached, marked "Exhibit A," and made a part of this application, said lode mining claims embracing 60.769 acres, exclusive of the area in conflict between said "Lone Pine" lode mining claim and said "Black Tail" lode mining claim, official survey No. 365, in Eureka Mining District, in the County of Stevens and State of Washington, as shown by the survey thereof, and hereby agrees to pay therefor Three Hundred and Five Dollars (\$305.00), being the legal price thereof.

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Dated, Spokane, Washington, February 7th, 1898.

JAMES CLARK,

I, Matthew E. Logan, Register of the Land Office at Spokane Falls, Washington, do hereby certify that the aforesaid mining claims or lodes or official survey No. 363, as applied for above, is subject to entry by the above named applicant, the area of said lode mining claims exclusive of the conflict between the "Lone Pine" lode mining claim and the "Black Tail" lode mining claim, official survey No. 365, and which is excluded, being 60769 acres, and the legal price thereof Three Hundred and Five Dollars (\$305.00).

February 7, 1898.

MATTHEW E. LOGAN,

Register.

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Survey No. 363. "Lone Pine" Group. Application to Purchase. U. S. Land Office, Spokane,

562 *Northport Smelting & Refining Co. vs.*

Washington. Filed Feb. 7, 98. Matthew E. Logan,
Register.

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(4—683.)

Mineral Survey No. 363.

Lot No. —

Spokane Land District.

Field Notes.

of the Survey of the Mining Claim of

James Clark,

Zeigler Block, Spokane, Wash.,

known as the

Lone Pine, Pearl, Surprise and Last Chance Lodes,
Eureka Mining District, Stevens County, Wash-
ington. Section unsurveyed. Township 37 N,
Range 32 E. W. M. Surveyed under instruc-
tions dated June 17th, 1897.

By JOHN C. RALSTON,

U. S. Deputy Mineral Surveyor.

Claim located: Lone Pine, Feby. 28th, 1896; Pearl,
July 18th, 1896; Surprise, March 8th, 1896; Last
Chance, Feby. 29th, 1896.

Survey commenced June 28th, 1897.

Survey completed July 1st, 1897.

U. S. Land Office. Spokane, Washington. Filed
Oct. 27—97. Matthew E. Logan, Register.

Preliminary Oaths of Assistants in Survey of Mining Claim.

We, D. Bonner and E. Henricks, do solemnly swear that we will well and faithfully execute the duties of chain carriers; that we will level the chain upon even and uneven ground and plumb the tally-pins, either by sticking or dropping the same; that we will report the true distance to all notable objects, and the true length of all lines that we assist in measuring, to the best of our skill and ability, and in accordance with instructions given us, in the survey of the Mining Claim of James Clark, known as the Surprise, Pearl, Lone Pine & Last Chance, situate in Eureka mining district, Stevens County, Washington, in Section —, Township No. —, Range No. —.

D. BONNER, Chainman.

E. HENRICKS, Chainman.

Subscribed and sworn to by the above-named persons before me this 23d day of June, 1897.

[Notary Seal]

G. O. HELPHREY,

Notary Public, Residing at Nelson, Wash.

I, A. Ritchie, do solemnly swear that I will well and truly perform the duties of axeman, in the establishment of corners and other duties, according to instructions given me and to the best of my skill and ability, in the survey of the Mining Claim of James

Clark, known as the Surprise, Pearl, Lone Pine & Last Chance, more fully described in the preceding affidavit.

A. RITCHIE, Axeman.

Subscribed and sworn to by the said A. Ritchie before me this 23d day of June, 1897.

[Notary Seal]

G. O. HELPHREY,
Notary Public, Residing at Nelson, Wash.

I,——, do solemnly swear that I will well and truly perform the duties of flagman, in the establishment of corners and other duties, according to instructions given me and to the best of my skill and ability, in the survey of the Mining Claim of ——, known as the ——, more fully described in the preceding affidavit.

——, Flagman.

Subscribed and sworn to by the said —— before me this —— day of ——, 18—.

_____.

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SURVEY #363.

Lone Pine, Pearl, Surprise and Last Chance Lodes.
Feet.

LONE PINE LODGE.

Beginning at Cor. No. 1 on narrow bench 60 feet above Eureka Creek, Identical with Location Cor. Location Cor. being a pine post 5x5 ins 4½ ft. above ground, marked S. W. Cor. Lone Pine Min. Claim.

A fir post 5"x5"-5 ft. long set 2 ft in ground to bed rock, with mound of earth & stones scribed 1-4-1-363 whence.

A fir tree 12" diam. blazed & scribed B. T. 1-4-1-363 brs. S. 60° 00' W. 45.3 ft.

A granite rock in place 3 ft. high 6 ft. sqr. chiseled (X) B. R. 1-4-1-363 brs. S. 4° 51' W. 82.0 feet.

A large pine tree on adjacent butte brs. S. 80° 37' W.

No peaks visible.

The S. W. Cor. of Sec. 36, T. 37 N. R. 32 E. W. M. brs. S. 58° 27' 06" E. 6463.65 feet.

U. S. L. M. 362 brs. S. 39° 30' W. 2851.34 feet, Thence N. 81° 23' E. Va. 23°00.

316.9 Intersect lode lines.

539.79 " line 3-4 Last Chance Lode, this survey.

585.9 To Cor. No. 2, the surface between Cors. No. 1 & 2 rises sharply towards the East.

A pine post 5"x5"-4½ ft. long set 18" in ground to bed rock, with mound of earth & stones scribed 2-363.

A pine tree 14" diam. blazed & scribed B. T. 2-363 brs. S. 63° 42' W. 13.45 ft.

A fir tree 10" diam. blazed and scribed B. T. 2-363 brs. N. 72° 43' E. 17.7 ft.

A prominent peak brs. N. 33° 12' W.

" " " " S. 36°00' W.

Location Corner is a pine post 5"x5"-5 ft. long planted alongside of stump & is marked S. E. Cor. post, Lone Pine Mineral Claim

& brs. S. $24^{\circ} 10'$ E. 20.6 feet. Thence N. $25^{\circ} 55'$ W. Va. $21^{\circ} 45'$ E.

181.51 Intersect line 3-4 Last Chance lode, this survey.

570. Intersect gully running South Westerly.

1455.7 To corner No. 3.

A pine post $4'' \times 4''$ —6 ft. long set 2 ft. in ground with mound of earth scribed 3-363.

A fir tree $40''$ diam. blazed & scribed B. T. 3-363 brs. S. $75^{\circ} 13'$ W. 107.8 ft.

Another fir tree $12''$ diam. blazed & scribed B. T. 3-363 brs. S. $49^{\circ} 31'$ E. 63 feet.

A butte brs. N. $4^{\circ} 12'$ E.

Location Corner is a pine post $6'' \times 5''$ — $4\frac{1}{2}$ ft. above ground in a clump of small pine trees, is marked N. E. Cor. post Lone Pine Mineral Claim & brs. N. $12^{\circ} 22'$ W. 216 feet. Thence S. $81^{\circ} 23'$ W. Va. $22^{\circ} 00'$ E.

309.1 Intersect lode line & ridge running South Easterly.

626.0 To Corner No. 4 on steep hillside sloping Westerly into Eureka Creek.

A pine post $5'' \times 5''$ — $4\frac{1}{2}$ ft. long, set on bed rock with mound of stone scribed 4-363.

An exposed porphyry rock face (X) cross which brs. it $70^{\circ} 42'$ E. 6.6 ft. & is chiseled B. R. 4-363.

Another rock face (X) cross, on which, brs. S. $9^{\circ} 43'$ E. 17.9 ft. chiseled B. R. 4-363.

A peak brs. N. $32^{\circ} 30'$ W.

“ “ “ S. $12^{\circ} 28'$ E.

Corner No. 1 Pearl Lode this survey brs.
N. $27^{\circ} 24' 39''$ W. 29.02 feet.

Loc. Cor. is a pine post 4 ft. above ground
5"x6" sqr. is mkd. N. W. Cor. post Lone
Pine Mineral Claim & brs. N. $80^{\circ} 00'$ W.
42.2 feet.

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Thence S. $27^{\circ} 24' 39''$ E.

Va. $22^{\circ} 10'$ E.

1330. Intersect gully running South Westerly.

1350. " trail running North Easterly to
Lone Pine tunnel.

1468.12 To cor. No. 1 the place of beginning.

PEARL LODGE.

Beginning at cor. No. 1 on steep hillside.

A pine post 4"x4"—5 ft. long set on bed
rock with mound of stone scribed 1-363.

A cross (X) on rock face brs. S. $0^{\circ} 24'$ W.
5.2 ft. face chiseled B. R. 1-363.

A (X) cross on another rock face bears
N. $14^{\circ} 58'$ E. 17.0 ft. face chiseled B. R.
1-363.

A peak brs. S. $12^{\circ} 08'$ E.

Another peak brs. N. $32^{\circ} 09'$ W.

Location cor. is a pine post 5"x5"—5 ft.
above ground along side projecting ledge of
rock, is marked corner post No. 4 Pearl
Mineral Claim & bears N. $27^{\circ} 24' 39''$ W.
14.6 ft.

Little Cove Loc. Cor. (unsurveyed) lying on hillside brs. S. $5^{\circ} 10'$ W. 55 feet.

The S. W. cor. of Sec. 36 T. 37 N. R. 32 E. W. M. brs. S. $52^{\circ} 45' 36''$ E. 7784.82 feet.

Thence S. $60^{\circ} 19'$ W. Va. $22^{\circ} 10'$ E.

202.8 Intersect lode line.

330.0 " trail running Southeasterly.

420.0 " Eureka Creek.

504.6 To cor. No. 2 at foot of hill.

A pine post $5'' \times 5''$ —6 ft. long set 2.5 ft. in ground with mound of earth, scribed 2-363.

A fir tree 30'' diam. blazed and scribed B. T. 2-363 brs. N. $4^{\circ} 18'$ W. 46.8 feet.

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Another fir tree 30 ins. diam. blazed & scribed B. T. 2-363 brs. S. $38^{\circ} 22'$ E. 23.5 ft.

A point of rocks brs. N. $15^{\circ} 28'$ E.

Location Corner is a fir post $5'' \times 5''$ — $4\frac{1}{2}$ ft. above ground, is marked Post 6 Pearl Mineral Claim & brs. S. $61^{\circ} 50'$ W. 91.5 ft.

Tunnel of Little Cove (unsurveyed) brs. N. $13^{\circ} 12'$ W. 137 ft.

Thence S. $33^{\circ} 26' 27''$ E. Va. $22^{\circ} 00'$ E.

1499.18 To Corner No. 3, which is about 40 ft. above Eureka Creek, on hillside.

A pine post $5'' \times 5''$ —5 ft. long set 2 ft. in ground with mound of earth, scribed 3-363.

A Tamarack tree 30 ins. diam. blazed & scribed B. T. 3-363 brs. S. $30^{\circ} 10'$ W. 21.1 ft.

A fir tree 10 ins. diam. blazed & scribed
B. T. 3-363 brs. N. $12^{\circ} 24'$ W. 36.6 ft.

No peaks visible.

Loc. cor. is a pine stump squared to 6x6"—
5 ft. above ground & marked Cor. post No. 1
Pearl Mineral Claim & brs. S. $60^{\circ} 19'$ W. 35
feet.

Corner No. 2 Surprise lode this survey
brs. S. $60^{\circ} 19'$ W. 20 feet.

Thence N. $60^{\circ} 19'$ E.

Va. $22^{\circ} 00'$ E.

140. Intersect Eureka Creek running South-
erly.

200. Intersect trail.

301.8 " lode line.

347.0 To corner No. 4.

Identical with cor. No. 1 Lone Pine lode
this survey.

Identical with location corner, the same
being; A pine post 5"x4 $\frac{1}{2}$ "-4 $\frac{1}{2}$ ft. above
ground marked corner post No. 3 Pearl
Mineral Claim.

Thence N. $27^{\circ} 24' 39''$ W.

Va. $23^{\circ} 00'$ E.

1497.14 To cor. No. 1 the place of beginning.

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This line from cor. 4 to 1 being coincident
with line 4-1 Lone Pine Lode.

SURPRISE LODE.

Beginning at cor. No. 1.

Identical with cor. No. 4 Pearl Lode this survey, identical with cor. No. 1 Lone Pine Lode this survey.

Identical with loc. cor. which is a pine post 5x5"-41½' above ground mkd. N. E. cor. post. Surprise Mineral Claim.

The S. W. cor. of Sec. 36 T. 37 N. R. 32 E. W. M. bears S. 58° 27' 06" E. 6463.65 ft.

Thence S. 60° 19' W.

Var. 23° 00' E.

130.0 Intersect Lode line.

347.0 To cor. No. 3 Pearl Lode this survey.

367.0 To cor. No. 2.

A pine post 5x5-5 ft. long set 2 ft. in ground with mound of earth scribed 2-363.

A Tamarack tree 30 ins. diam. blazed & scribed B. T. 2-363 brs. S. 29° 35' E. 9.8 feet.

A Tamarack stump 24 ins. diam. blazed & scribed B. S. 2-363 brs. N. 37° 33' W. 29.4 ft.

No peaks visible.

Loc. cor. is a pine post 5"x5"-41½ ft. above ground, is marked N. W. cor. post Surprise Mineral Claim & bears S. 60° 19' W. 36.5 feet.

Thence S. 12° 11' 39" E.

Va. 21° 45' E.

1520.68 To cor. No. 3 on steep hillside sloping east-
erly into Eureka Creek.

A pine post 4"x4"-6 ft. long set 2.5 ft. in ground with mound of earth, scribed 3-363 whence

A pine tree 20" diam. blazed & scribed
B. T. 3-363 brs. S. $51^{\circ} 30'$ E. 7.8 feet.

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Another fir tree 14 ins. diam. blazed and
scribed B. T. 3-363 brs. N. $40^{\circ} 06'$ W. 27.7 ft.

A prominent peak brs. S. $28^{\circ} 57'$ E.

Location cor. is a fir post 5x6-5 ft. above
ground, is marked S. W. corner post Sur-
prise Mineral Claim & brs. S. $12^{\circ} 11' 39''$ E.
308 ft.

Thence N. $60^{\circ} 19'$ E.

Va. $22^{\circ} 00'$ E.

270.0 Intersect Eureka Creek flowing southerly.

300.0 " trail running "

313.0 " Lode line.

521.0 To cor. No. 4 on hillside about 80 feet
above Eureka Creek.

A pine post 4"x4"-5 ft. long set 2 feet in
ground with mound of earth, scribed 4-363
whence

A fir tree 20" diam. blazed & scribed B. T.
4-363 brs. N. $75^{\circ} 35'$ W. 18.6 feet.

A pine tree 30" diam. blazed & scribed
B. T. 4-363 brs. S. $13^{\circ} 43'$ E. 29.05 ft.

No peaks visible.

Location corner is a pine stump squared
to 5x5-4 $\frac{1}{2}$ ft. above ground, is marked S. E.
cor. post Surprise Mineral Claim & bears
S. $17^{\circ} 53'$ E. 330 ft.

Thence N. $17^{\circ} 53'$ W.

Va. $24^{\circ} 00'$ E.

1481.7 To cor. No. 1 the place of beginning.

LAST CHANCE LODGE.

Beginning at corner No. 1; Identical with loc. cor. which is a pine post 4x5"-41½ ft. above ground & is mkd. S. E. cor. post Last Chance Mineral Claim.

A pine 4x4"-5' long set 2' in ground with md. of earth scribed 1-363: A rock in place 2' high by 4' sqr. chiseled (X) B. R. 1-363, cross on which brs. N. 79° 51' E. 73.9 feet.

A prominent peak brs. S. 57° 41' E.

“ “ “ “ S. 37° 19' W.

The S. W. cor. of S. 36 T. 37 N., R. 32 E. brs. 58° 53' 44" E. 5496.63 feet.

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Thence N. 4° 35' 19" E.

Va. 23° 10' E.

1379.23 Along level bench to cor. No. 2.

A cottonwood post 4x4" 5 ft. long set 2 ft. in ground with md. of earth scribed 2-363.

A pine tree 20 ins. diam. blazed & scribed B. T. 2-363 brs. N. 43° E. 9.7 feet.

A pine tree 48 ins. diam. blazed & scribed B. T. 2-363 brs. N. 79° 08' W. 35.5 feet.

A prominent peak brs. N. 34° 51' W.

A tree on adjacent butte bears S. 80° 29' W.

Location cor. is a pine post 6x6"-5 ft. above ground, is mkd. N. E. cor. post Last

Chance Mineral Claim & bears N. $13^{\circ} 41'$ E.
714.0 feet. Along side large pine tree.

Thence N. $62^{\circ} 19'$ W.

Va. $23^{\circ} 00'$ E.

307.0 Intersect lode line.

575.0 " Gully running southerly.

665.0 To cor. No. 3, planted in bottom of gully.
A pine post 4x4"-6 ft. long set 2 ft. in
ground with mound of earth scribed 3-363.

A pine tree 14" diam. blazed & scribed
B. T. 3-363 brs. N. $61^{\circ} 41'$ E. 46.4 feet.

Another Pine tree 24" diam. blazed &
scribed B. T. 3-363 brs. S. $44^{\circ} 28'$ W. 39.8
feet.

A peak brs. N. $34^{\circ} 21'$ W.

Loc. cor. is a pine post 6x6"-5 ft. above
ground, is marked N. W. cor. Last Chance
Mineral Claim & brs. S. $66^{\circ} 49'$ W. 91 feet.

Thence S. $11^{\circ} 13'$ E.

Va. $22^{\circ} 45'$ E.

190.0 Intersect Gully running southerly.

907.64 " line 3-2 Lone Pine lode this survey.

1081.13 " " 2-1 " " " " " "

From intersection with gully to intersec-
tion with Lone Pine line 2-1 the ground
rises rapidly & from this last intersection to
cor. No. 4 the ground is about level.

1630.2 To cor. No. 4 planted on brow of hill slop-
ing Southerly & Westerly. Identical with
location corner which is;

A pine post 5x5"—4½ ft. above ground alongside squared stump, which is side line stake of Black Tail Lode & is marked S. W. cor post of Last Chance Mineral Claim.

A pine post 5x5"—5 ft. long set 1 ft. in ground to bed rock with mound of stones scribed 4-363 Whence;

A pine tree 2 feet diam blazed & scribed B. T. 4-363 brs. S. 71° 13' W. 80.57 ft.

Another pine tree 14" diam. blazed & scribed B. T. 4-363 brs. N. 85° 30' E. 60.05 feet.

A prominent peak brs. S. 36° 43' W.

Another " " " S. 57° 41' E.

Cor. No. 1-4-1 this survey brs. N. 54° 27' W. 787.24 feet.

Cor. No. 2 Lone Pine lode this survey brs. N. 6° 24' 11" W. 548.91 ft.

Thence S. 62° 19' E.

Va. 24° 45' E.

72.31 Intersect lode line.

182.31 To cor. No. 1 the place of beginning.

The section corner to which the corners of this survey are tied is apparently the S. W. corner of Sec. 36 T. 37 N. R. 32 E. Willamette Meridian and is described in full as follows:

The corner is a porphyry rock showing 8"x12" above ground with mound of earth on North

Pits about 5 feet from rock on Northeast & West.

Va. 23° 35' E.

A pine tree 16 ins. diam. blazed & scribed S. C. T. 37 N. R. 32 S. 36 S. C. B. T. & brss. N. $64^{\circ} 00'$ E. 80.0 ft.

Another pine tree 18 ins. diam. blazed & scribed S. C. T. 37 N. R. 32 S. 35 & 36 S. C. B. T. and bears S. $8^{\circ} 49'$ W. 61.7 feet.

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Mr. Booth & myself retraced the 9th Standard Westward from this corner for about $1\frac{1}{2}$ miles & found only a post mkd. "C. C. 111 111" 2591.8 feet distant & 64.4 ft. West of this C. C. cor. we found a $\frac{1}{4}$ cor. the bearing trees of which had their scribing too indistinct to determine with certainty the name of the $\frac{1}{4}$ cor.

AREAS.

Lone Pine Lode	19.333	Acres
Pearl Lode	14.623	"
Surprise	14.783	"
Last Chance Lode, total area	12,339	A.
Area in conflict with Lone		
Pine excluded.....	0.092	
	<hr/>	
	12.247	
Net area Last Chance	12.247	"
Total area this survey.....	<hr/>	60.986
		"

LOCATION.

This claim is located in what will be Sections 34-35 when this district is subdivided, in T. 37 N. R., 32 E. W. M., & lies about 2 miles North West of the

confluence of the San Puell river & Granite Creek. Eureka Creek, which flows southerly through this claim, joins Granite Creek about $\frac{3}{4}$ mile south of this claim.

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EXPENDITURE OF FIVE HUNDRED DOLLARS.

I certify that the Value of the Labor & improvements upon this claim placed thereon by the claimants is not less than five hundred dollars & that said improvements consist of;

On Lone Pine Lode,

- No. 1. The Discovery, which bears from cor No. 1, N. $0^{\circ} 51'$ W. 670.8 feet. Val. \$10.00
- No. 2. A tunnel 4.5x6.5 ft. running N. $25^{\circ} 00'$ W. 118 ft. to breast the portal of which bears from cor. No. 1, N. $28^{\circ} 24'$ E. 420 feet. Value \$2,360.00
- No. 3. A blacksmith shop 10x12 bears from cor. No. 1, N. $25^{\circ} 30'$ E. 425 feet. Value \$50.00

On Pearl Lode.

- No. 1. The discovery cut of the Pearl Lode which bears from corner No. 1, S. $24^{\circ} 00'$ E. 1227.2 feet & running N. $62^{\circ} 00'$ E. 5 ft. wide & 10 ft. deep in earth & rock. Value \$100.00
- No. 2. A boarding & bunk cabin 16x50 the S. W. cor. of which brs. from cor. No. 1-4-1, N. $55^{\circ} 52'$ W. 150 feet. Value \$150.00

On Surprise Lode.

No. 1. Discovery cut which bears from cor. No. 1,
S. $5^{\circ} 31'$ E. 766.9 feet. Value \$25.00

On Last Chance Lode.

No. 1. The discovery cut which bears from cor. No.
1, N. $30^{\circ} 50'$ W. 200.2 feet. Value \$12.00

Other Improvements

on Pearl Lode.

A cabin 12x14 the S. E. cor. of which brs.
from cor. No. 1-4-1, N. $72^{\circ} 25'$ W. 225
feet belonging to claimant Nevin.

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The surface embraced by this claim rises rapidly from the gulch through which Eureka Creek flows and terminates in a ridge which cleaves the centre of the Lone Pines.

From this ridge the surface again declines easterly into a gully which skirts the east side line of the Lone Pines and joins Eureka Creek about 150 feet west of cor. 1-4-1. The gulch through which Eureka Creek flows averages about 200 ft. in width & is heavily timbered with pine & fir for its entire length through these lodes. Eureka Creek flows southerly through the Pearl and Surprise, and is about 3 ft. wide by 6" deep. The west half of the Last Chance lode lies on ground sloping westerly at a moderately sharp angle, and the east half lies upon a bench about 300 ft. above Eureka Creek.

The veins of this claim dip about $65^{\circ} 00''$ to the East.

The open cut of the Pearl lode continued on its present course into a tunnel will cut the veins of the Lone Pine & Last Chance at a good depth and at the intersection of this tunnel with the vertical plane

of the Lone Pine tunnel an up-cast can be economically put in. By drifting Northerly on the Pearl vein & southerly on the Surprise from the Pearl tunnel, landing the ores at the mouth of this tunnel where ample surface room and water is found for dumping and milling purposes gives one system of workings and one plant of machinery on the most economic basis for development.

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The fact is emphasized that all the veins of this claim dip easterly or away from the creek so that the present system of workings is one on which the expenditure in the above estimate operates to the common benefit of all the lodes in this claim,

INSTRUMENT.

This survey was made with a Gurley light mountain transit with solar attachment.

The courses were deflected from the true meridian as determined by solar observations.

The distances were measured with a 50 & a 400 ft. steel tape.

ADDENDUM.

The arrangement of the corner numbers of the lodes in this survey is made according to the pencil notations made in the Surveyor General's office on the field notes returned to me for correction.

From the common corner of the Lone Pine, Pearl, & Surprise, viz.: 1-4-1 the U. S. L. M. 362 is visible to which direct bearing & distance was measured.

These two facts are my reasons for arranging the numbers as they now stand.

DIRECTIONS:—1. Carry out the area in acres to three decimals.
 2. In balancing Lat. and Dep. do not obliterate or change the original figures except as follows:
 Put the corrected figure or figures above in red ink. Do not change the footing of the original figures, but put below them the corrected footing in red ink.

Tabling and Calculations of Lone Pine Group, Survey No. 363.

(For Surveyor General's Office.)

No.	Course.	Distance.	Lone Pine Lode.		Latitudes.		Departures.		N. Areas.	S. Areas.
			Log. Sin.	Log. Cos.	Log. Dist.	North.	South.	East.	West.	Double M. D.
1—2	N. 81° 23' E.	58590	9.995070	9.175578	2.767823	8778		57929	57929	50850 08
2—3	N. 25° 55' W.	145570	9.640544	9.953968	3.163072	130930		63623	52735	683912 86
3—4	S. 81° 23' W.	62600	9.995070	9.175578	2.796574		9379	61893	72381	68730 25
4—1	S. 27° 24' 39" E.	146812	9.663104	9.948281	3.166761		130329	67587	—67587	880854 61
						139708	139708	125516	125516	2/1684347.80
										842173 90=19.333 Acres.
										43560
1—2	S. 60° 19' W.	50460	9.938908	9.694786	2.702947		24988	43839	43839	109544 89
2—3	S. 33° 26' 27" E.	149918	9.741211	9.921404	3.173854		125100	82616	—5062	63325 62
3—4	N. 60° 19' E.	34700	9.938908	9.694786	2.540329	17183		30146	107700	185060 91
4—1	N. 27° 24' 39" W.	149714	9.663104	9.948281	3.175262	132905		68923	68923	916021 13
						150088	150088	112762	112762	2/1273952.55
										636976 28=14.623 Acres.
										43560
1—2	S. 60° 19' W.	36700	9.938908	9.694786	2.564666		18174	31884	31884	57945 98
2—3	S. 12° 11' 39" E.	152068	9.324746	9.990090	3.182037		148637	32121	—31647	470391 51
3—4	N. 60° 19' E.	52100	9.938908	9.694786	2.716838	25800		45263	45737	118001 46
4—1	N. 17° 53' W.	148170	9.487251	9.978493	3.170760	141011		45500	45500	641600 05
						166811	166811	77384	77384	2/1287939 00
										643969.50=14.783 Acres.
										43560

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DIRECTIONS:—1. Carry out the area in acres to three decimals.
2. In balancing Lat. and Dep. do not obliterate or change the original figures except as follows:
Put the corrected figure or figures above in red ink. Do not change the footing of the original figures, but put below them the corrected footing in red ink.

Tabling and Calculations of Lone Pine Group, Survey No. 363.

(For Surveyor General's Office.)

No.	Course.	Distance.	Log. Sin.	Log. Cos.	Log. Dist.	Latitudes. North.	Latitudes. South.	Departures. East.	Departures. West.	Double M. D.	N. Areas.	S. Areas.
			Last Chance Lode.									
1—2	N. 4° 35' 19" E.	137923	8.903094	9.998606	3.139636	137481		11034		11034	151696 54	
2—3	N. 62° 19' W.	66500	9.947203	9.667065	2.822822	30895		58888	—36820			11375539
3—4	S. 11° 13' E.	163020	9.288964	9.991624	3.212241		159906	31710		—63998	1023366 42	
4—1	S. 62° 19' E.	18231	9.947203	9.667065	2.260810		8470	16144		—16144	13673 97	
						168376	168376	58888			1.188736 93	
								113755 39				
								2/1.074981 54				
								537490 77			12.339 Acres	
								43560				
	Lone Pine & Last Chance Conflict (Area to be excluded from Last Chance).											
Line 1—2												
Lone Pine	N. 81° 23' E.	4611	9.995070	9.175578	1.663795	691		4559		4559	315 03	
Line 2—3												
Lone Pine	N. 25° 55' W.	18151	9.640544	9.953968	2.258900	16326		7933	1185	7933	1934 75	
Line 3—4												
Last Chance	S. 11° 13' E.	17349	9.288964	9.991624	2.239274		17018	3374	—3374		5741 87	
						17018	17018	7933	7933		2/7991 65	
						17018					3995.82	0.092 Acres
											43560	

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FINAL OATHS FOR SURVEYS.

List of Names.

A list of the names of the individuals employed by John C. Ralston, United States Deputy Mineral Surveyor, to assist in running, measuring, and marking the lines corners and boundaries described in the foregoing field notes of the survey of the mining claim of James Clark, known as the Surprise, Pearl, Lone Pine & Last Chance and showing the respective capacities in which they acted.

D. BONNER, Chairman.

E. HENDRICK, Chainman.

A. RITCHIE, Axman.

_____, Flagman.

FINAL OATHS OF ASSISTANTS.

We, D. Bonner, E. Hendrick and A. Ritchie, do solemnly swear that we assisted John C. Ralston, United States Deputy Mineral Surveyor, in marking the corners and surveying the boundaries of the mining claim of James Clark, known as the Surprise, Pearl, Lone Pine & Last Chance, represented in the foregoing field notes as having been surveyed by said deputy mineral surveyor and under his direction; and that said survey has been in all respects, to the best of our knowledge and belief, faithfully and correctly executed, and the corner and boundary monu-

ments established according to law and the instruction furnished by the United States Surveyor-General for Washington.

D. BONNER, Chainman.

E. HENDRICK, Chainman.

his

A. X RITCHIE, Axman.

mark.

_____, Flagman.

Subscribed and sworn to by the above-named persons before me this 30th day of June, 1897.

[Seal Notary]

COLIN CAMPBELL,

Notary Public in & for State of Washington, residing at Eureka Camp.

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(4-686.)

FINAL OATH OF U. S. DEPUTY MINERAL SURVEYOR.

I, John P. Ralston, U. S. Deputy Mineral Surveyor, do solemnly swear that, in pursuance of instructions received from the United States Surveyor General for Washington, dated June 17th, 1897, I have, in strict conformity to the laws of the United States, the official regulations and instructions thereunder, and the instructions of said Surveyor General, faithfully and correctly executed the survey of the Mining Claim of James Clark, known as the Surprise, Pearl, Lone Pine & Last Chance Lodes, situate in Eureka Mining District; Stevens

County, Wash., in Section 34-35, Township No. 37 N., Range No. 32 E. unsurveyed, and designated as Survey No. 363, as represented in the foregoing field notes, which accurately show the boundaries of said mining claim as distinctly marked by monuments on the ground, and described in the attached copy of the location certificate, which was received by me from the Surveyor General with said instructions, and that all the corners of said survey have been established and perpetuated in strict accordance with the law, official regulations and instructions thereunder; and I do further solemnly swear that the foregoing are the true and original field notes of said survey and my report therein, and that the labor expended and improvements made upon said mining claim by claimant or his grantors are as therein fully stated, and that the character, extent, location and itemized value thereof are specified therein with particularity and full detail, and that no portion of said labor or improvements so credited to this claim has been included in the estimate of expenditures upon any other claim.

JOHN C. RALSTON,

U. S. Deputy Mineral Surveyor.

Subscribed and sworn to by the said John C. Ralston, U. S. Deputy Mineral Surveyor, before me a Notary Public in & for the State of Washington this 22nd, day of July, 1897.

[Seal Notary]

GEO. T. CLINE,

Notary Public in & for Washington, residing at
Eureka Mining Camp.

LOCATION NOTICE.

“Lone Pine.”

Notice is hereby given that the undersigned, having complied with the requirements of chapter six of title thirty-two of the Revised Statutes of the United States and the local customs, laws and regulations, has located (1500) fifteen hundred linear feet on the Lone Pine Quartz lode situated in Reservation Mining District, Stevens County, Washington and described as follows; is 1500 linear feet in length & 600 linear feet in with; 300 feet on each side of centre line, stakes are placed at each corner and each end of centre line centre line, runs in northwesterly & southeasterly direction; claim is situated about one half mile north of the northwest fork of San Poll Creek & about two & a half miles in a southwesterly direction from O'Brien's ranch.

This notice is placed at discovery post.

Discovered Feby. 28th, 1896.

Located “ “ “

Locators,

PHILIP CREASON.

T. RYAN.

JAMES CLARK.

CHARLES ROBINS.

Witnesses:

G. M. WELTY,

J. WELTY.

Filed for record March 13th, 1896, at 3:20 o'clock
P. M., at the request of Philip Creasor and recorded
& recorded April 4th, 1896.

J. S. McLEAN,
County Auditor.

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State of Washington,
County of Stevens,—ss.

I, John L. Metcalfe, Auditor in & for said County
& State do hereby certify that the within & foregoing
is a full true & correct copy of the record of an in-
strument of writing now recorded in my office on
page 230, volume M, of the Record of Quartz.

In witness whereof I have hereunto set my hand
and affixed my official seal this eighth day of June,
1897.

JOHN L. METCALFE,
Auditor Stevens County, Wash.,
By J. E. Pickerell, Deputy.

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NOTICE OF QUARTZ LOCATION.

“Pearl.”

Washington State,
Eureka Mining District.

Notice is hereby given that the undersigned having
complied with the requirements of chapter six title
thirty-two of the Revised Statutes of the United
States and the laws of the above state and the local
customs and regulations of said District has located

& does hereby locate 1500 linear feet on the Pearl Lode situated in Stevens County in the above state and mining District and further described as follows:

Commencing at a post marked No. 1 at the south corner from thence 300 feet in a northeasterly direction to a center and post marked No. 2. Thence 200 feet in a northeasterly direction to a corner post marked No. 3; Thence 1500 feet in a northwesterly direction to a corner post marked No. 4; Thence 200 feet in a southwesterly direction to a centre and post marked No. 5; Thence 300 feet in a southwesterly direction to a corner post marked No. 6. Thence 1500 feet to place of beginning, intending to claim fifteen hundred feet in length & (500) five hundred feet in width, for the purpose of mining the same, claiming all surface rights, privileges and minerals and other rights granted by existing laws & customs.

This claim is further described as follows: Is situated on the north side of Eureka Creek about 2 miles west of San Poil Creek & lies on the south side of the Lone Pine Mineral Claim and the north side of the Kangaroo & joins Enterprise on southeast end

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and the little cove on the northwest end,

Posts are placed at each corner and both ends of centre line. This notice is placed at discovery.

Located this 18th day of July, A. D., 1896.

Locators:

PHILIP CREASOR— $\frac{1}{2}$.

CHARLES P. ROBINS— $\frac{1}{4}$.

JAMES CLARK— $\frac{1}{4}$.

Witness:

J. G. GREEN.

Filed for record Aug. 20th, 1896, & 3 o'clock P. M.,
at the request of J. G. Green & recorded Sept. 5th,
1896.

J. S. McLEAN,
County Auditor.

State of Washington,
County of Stevens,—ss.

I, John L. Metcalfe, Auditor in & for said county
& State do hereby certify that the within & foregoing
is a full, true & correct copy of the record of an in-
strument of writing now recorded in my office on
page 550, volume "Q" of the record of Quartz.

In witness whereof, I have hereunto set my hand
& affixed my official seal this eighth day of June, 1897.

JOHN L. METCALFE,
Auditor Stevens County, Wash.

By J. E. Pickrell,
Deputy.

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LOCATION NOTICE OF QUARTZ LOCATION.

"Surprise."

Washington State,
Reservation Mining District.

Notice is hereby given that the undersigned hav-
ing complied with the requirements of chapter six,
of title thirty-two of the revised statutes of the
United States and the laws of the above state and
the local customs and regulations of said District has

located & does hereby locate 1500 linear feet on the Surprise lode situated in Stevens County in the above state & mining district and further described as follows; 1500 linear feet in length and 600 linear feet in width, 300 linear feet on each side of the centre line discovery post about the centre of claim.

Stakes are placed at each corner and each end of centre line; this notice is placed at discovery and is further described as follows: is situated on the north side of the northwest fork of the San Poill Creek and lies along the south side of the Black Tail Mineral Claim.

Located this 8th day of March, A. D., 1896.

T. RYAN,
CHARLES ROBINS,
Locators.

Witness:

PHILIP CREASOR.

Filed for record March 13th, 1896, at 3:20 o'clock P. M., at the request of Philip Creasor and recorded April 4th, 1896.

J. S. McLEAN,
County Auditor.

State of Washington,
County of Stevens,—ss.

I, John L. Metcalfe, Auditor in and for said county & state, do hereby certify that the within & foregoing is a full, true & correct copy of the record of an instrument of writing now recorded in my office on page 228, volume M, of the record of Quartz.

In witness whereof, I have hereunto set my hand
& affixed my official seal this 8th day of June, 1897.

JOHN L. METCALFE,
Auditor Stevens County, Wash.

By J. E. Pickrell,
Deputy.

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LOCATION NOTICE.

Last Chance:

Notice is hereby given that the undersigned, having complied with the requirements of chapter six of title thirty-two of the Revised Statutes of the United States and the local customs laws & regulations, has located (1500) fifteen hundred linear feet on the Last Chance Quartz Lode situated in Reservation Mining District, Stevens County, Washington and described as follows: is 1500 linear feet in length & 600 linear feet in width. Stakes are placed at each corner & each end of centre line & lies along the north side of the Black Tail Mineral Claim and the Lone Pine Mineral Claim, is situated about one-half mile north of the northwest fork of the San Poll Creek. This claim lies in a northwest & southeasterly direction 300 linear feet on each side of centre line.

Discovered Feby. 29, 1896.

Located “ “ “

Recorded ——— 189—.

T. RYAN,
PHILIP CREASOR,
JAMES CLARK,
CHARLES ROBINS,
Locators.

Attest:

JOHN WELTY.

File for record March 13th, 1896 at 3:20 o'clock
P. M. at the request of Philip Creasor & recorded
April 14th, 1896.

J. S. McLEAN,
County Auditor.

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State of Washington,
County of Stevens,—ss.

I, John L. Metcalfe, Auditor in & for said county
& state, do hereby certify that the within & fore-
going is a full, true, & correct copy of the record
of an instrument of writing now recorded in my
office on page 229, volume "M," of the Record of
Quartz.

In witness whereof, I have hereunto set my hand
& affixed my official seal this 8th day of June, 1897.

JOHN L. METCALFE,
Auditor Stevens County, Wash.

By J. E. Pickrell,
Deputy.

(4-687)

SURVEYOR GENERAL'S CERTIFICATE OF
APPROVAL OF FIELD NOTES AND
SURVEY OF MINING CLAIM.

DEPARTMENT OF THE INTERIOR.

Office of U. S. Surveyor General,
Olympia, Wash.

September 11, 1897.

I, U. S. Surveyor General for Washington, do hereby certify that the foregoing and hereto attached Field Notes and Return of the Survey of the Mining Claim of James Clark, known as the Lone Pine, Pearl, Surprise & Last Chance Lodes, situated in Eureka mining district, Stevens County, Washington, in Sections 34 & 35, Township No. 37 N., Range No. 32 E., W. M. unsurveyed, designated as Survey No. 363, executed by John C. Ralston, U. S. Deputy Mineral Surveyor, June 28th to July 1st, 1897, under my instructions dated June 17th, 1897, have been critically examined and the necessary corrections and explanations made, and the said Field Notes and Return, and the Survey they describe, are hereby approved. A true copy of the copy of the location certificate filed by the applicant for survey is included in the field notes.

WM. P. WATSON,
U. S. Surveyor General for State of Washington.

(4-688.)

U. S. SURVEYOR GENERAL'S FINAL CER-
TIFICATE ON FIELD NOTES.

DEPARTMENT OF THE INTERIOR.

Office of U. S. Surveyor General,
Olympia, Wash.

September 11, 1897.

I, U. S. Surveyor General for Washington, do hereby certify that the foregoing transcript of the Field Notes, return and approval of the Survey of the mining claim of James Clark, known as the Pearl, Lone Pine, Surprise and Last Chance Lodes, situate in Eureka Mining District, Stevens County, Washington, in Sections 34 & 35, Township No. 37 N, Range No. 32 E., W. M., unsurveyed, and designated as Survey No. 363, has been correctly copied from the originals on file in this office; that said Field Notes furnish such an accurate description of said mining claim as will, if incorporated into a patent, serve fully to identify the premises, and that such reference is made therein to natural objects or permanent monuments as will perpetuate and fix the *locus* thereof.

And I further certify that five hundred dollars' worth of labor has been expended or improvements made upon said mining claim by claimant or his grantors, and that said improvements consist of on Lone Pine Lode.

The Discovery \$10.00 A tunnel 4.5x6.5 ft. running 118 ft., val. \$2360.00. A blacksmith shop 10x12, value \$50.00.

On Pearl Lode: The discovery cut 5 ft. wide 10 ft. deep, val. \$100.00. A boarding cabin 16x50, val. \$150.00. On Surprise Lode: Discovery cut value \$25.00; On Last Chance: Discovery cut val. 12.00, other improvements on Pearl Lode: A cabin 12x14 ft., and that no portion of said labor or improvements has been included in the estimate of expenditures upon any other claim.

I further certify that the plat thereof, filed in the U. S. Land Office at Spokane, is correct and in conformity with the foregoing Field Notes.

WM. P. WATSON,
United States Surveyor General for State of Washington.

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AFFIDAVIT OF FIVE HUNDRED DOLLARS IMPROVEMENT.

State of Washington,
County of Stevens,—ss.

John Bresnahan & F. A. Williamson, of lawful age, being first duly sworn according to law, depose & say that they are acquainted with the Lone Pine, Last Chance, Surprise & Pearl Mining Claims in Eureka Mining District, county & state aforesaid for which James Clark has made application for patent under the provisions of chapter six, title thirty-two of the Revised Statute of the United States & that the labor done & improvements made

thereon by the applicant & his grantors exceed five hundred dollars in value & said improvements consist of the discovery cut of the Lone Pine Lode \$10.00, Lone Pine tunnel 118 feet in length \$2360.00. A blacksmith shop on the Lone Pine Lode \$50.00 the discovery cut of the Pearl Lode \$100.00. A boarding & bunk cabin on the Pearl Lode \$150.00.

The discovery cut of the Surprise Lode \$25.00 & the discovery cut of the Last Chance Lode \$12.00. Total value \$2707.00.

JOHN BRESNAHAN,
F. A. WILLIAMSON,

Subscribed & sworn to before me this the 28th day of September, A. D., 1897.

[Seal] CHARLES P. ROBBINS,
Notary Public, Residing at Eureka Camp, Stevens
County, State of Washington.

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CAPTION.

Abstract of Title to the following described real estate, to wit:

The "Pearl," "Surprise," "Last Chance" and "Lone Pine" Mining Claims Eureka Mining District.

Stevens County, Washington.

No.	Grantor.	Grantee.	Kind of Instrument.	Date of Instrument.		Date of Filing.		Book	Page
				Mo.	Day	Mo.	Day		
1	United States	Creasor—Ryan et al.	Notice.	Feb'y.	28	Mar.	13	M	230
2	"	Clark-Robins et al.	"	"	29	"	"	M	229
3	"	Ryan and Robins	"	Mar.	5	"	"	M	228
4	"	Creasor, Robins & Clark	"	July	18	Aug.	20	Q	550
5	Philip Creasor	Chas. P. Robbins	Deed	Sept.	25	Oct.	24	D	87
6	Chas. P. Robbins	James Clark	"	"	"	"	"	D	93
7	Philip Creasor	"	"	"	"	"	"	D	97
8	Chas. P. Robbins et al.	"	"	June	9	June	15	N	525
9	"	"	"	July	6	July	19	F	88

<p>Grantor.</p> <p>UNITED STATES</p> <p>to</p> <p>PHILIP CREASOR, T. RYAN, JAMES CLARK & CHARLES ROBINS,</p> <p style="text-align: right;">Grantees.</p> <p>Consideration: ———</p> <p>Number of Witnesses: 2.</p>	<p>No. 1.</p> <p>Nature of Instrument. Notice of Location.</p> <p>Date of Instrument. Feb. 28, 1896.</p> <p>Date of Acknowledgment.</p> <p>Date of Filing. Mar. 13, 1896.</p> <p>Where Recorded. Book M of Quartz Page 230</p>
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DESCRIPTION OF PROPERTY AND REMARKS.

The “Lone Pine,” Eureka Dist., Stevens County,
Wash.

Hereby locate 1500 linear feet by 600 ft. in width on the Lone Pine lode, 300 ft. on each side of center line. Stakes are placed at each corner & each end of center line. Runs in a northwesterly & southeasterly direction, situated about $\frac{1}{2}$ mile north of the north-west fork of San Poill creek & about $2\frac{1}{2}$ miles southwesterly from O’Brien’s Ranch.

Located Feb. 28-1896.

PHILIP CREASOR,
T. RYAN,
JAMES CLARK,
CHARLES ROBINS,
Locators.

Witness:

G. M. WELTY,
J. WELTY.

<p>Grantor.</p> <p>UNITED STATES</p> <p>to</p> <p>T. RYAN, PHILIP CREASOR, JAMES CLARK & CHARLES ROBINS,</p> <p>Grantees.</p> <p>Consideration: ———</p> <p>Number of Witnesses: 1.</p>	<p>No. 2.</p> <p>Nature of Instrument. Notice of Location.</p> <p>Date of Instrument. Feby. 29, 1896.</p> <p>Date of Acknowledgment.</p> <p>Date of Filing. Mar. 13, 1896.</p> <p>Where Recorded. Book M of Quartz, Page 229</p>
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DESCRIPTION OF PROPERTY AND REMARKS.

The “Last Chance,” Eureka Dist., Stevens County,
Wash.

Hereby locate 1500 linear ft. in length & 600 ft. in width, stakes are placed at each corner & each end of center line, this lies along the north side of the “Black Tail and Lone Pine claims is situated about one-half mile north of northwest fork of San Poill creek & lies northwesterly & southeasterly.

Located Feby. 29-1896.

T. RYAN,
PHILIP CREASOR,
JAMES CLARK,
CHARLES ROBINS,
Locators.

Attest:

JOHN WELTY.

No. 3.

Grantor.
UNITED STATES

Nature of Instrument.
Notice of Location.

to
T. RYAN AND CHARLES ROBINS,
Grantees.

Date of Instrument.
Mar. 5, 1896.

Date of Acknowledgment.

Consideration: ———

Date of Filing.
Mar. 13, 1896.

Number of Witnesses: 1.

Where Recorded.
Book M of Quartz, Page 228

DESCRIPTION OF PROPERTY AND REMARKS.

The “Surprise” Mining Claim, Eureka Dist.,
Stevens Co., Wash.

Hereby locate 1500 ft. in length & 600 ft. in width
on the Surprise Lode 300 ft. on each side center of
lode Discovery post about the center of claim, situ-
ated on north side of the northwest fork of the San
Poill creek & lies along the south side of the Black
Tail mineral claim.

Located Mar. 8-1896.

T. RYAN,
CHARLES ROBINS,
Locators.

Witness:

PHILIP CREASOR.

Grantor. UNITED STATES to PHILIP CREASOR, CHARLES P. ROBBINS and JAMES CLARK, Grantees.	No. 4. Nature of Instrument. Notice of Location. Date of Instrument. July 18, 1896. Date of Acknowledgment. Date of Filing. Aug. 20, 1896. Where Recorded. Book Q of Quartz, Page 550
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Consideration: _____

Number of Witnesses: 1.

DESCRIPTION OF PROPERTY AND REMARKS.

The "Pearl" Mining Claim, Eureka Dist., Stevens
Co., Wash.

Commencing at post marked No. 1 at south corner from thence 300 ft. northeasterly to center end post marked No. 2, thence 200 ft. northeasterly to corner post marked No. 3, thence 1500 ft. northwesterly to corner post marked No. 4, thence 200 ft. southwest-erly to a center end post marked No. 5, thence 300 ft. southwest-erly to corner post marked No. 6, thence 1500 ft. to place of beginning. Is situated on north side of Eureka Creek about 2 miles west of San Poil creek & lies on the south side of the "Lone Pine" & north side of the Kangaroo & joins Enterprise on S. E. & Little Cora on N. W. end.

Located July 18-1896.

PHILIP CREASOR— $\frac{1}{2}$,
CHARLES P. ROBBINS— $\frac{1}{4}$
JAMES CLARK— $\frac{1}{4}$,

Locators.

Witness:

J. G. GREEN.

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Grantor.	No. 5.
PHILIP CREASOR	Nature of Instrument.
to	Mining Deed.
CHARLES P. ROBBINS,	Date of Instrument.
Grantee.	Sept. 25, 1896.
Consideration: \$1—	Date of Acknowledgment.
Number of Witnesses: 2.	Sept. 25, 1896.
	Date of Filing.
	Oct. 24, 1896.
	Where Recorded.
	Book D of Deeds, Page 87

Acknowledged before W. C. Morris, Notary Public
Marcus
lie Spokane, Wash.

DESCRIPTION OF PROPERTY AND REMARKS.

An undivided one-twelfth (1-12) interest in the
"Pearl" Mining Claim. Eureka Dist., Stevens
County, Wash. Recorded Book Q, page 550. Records of Quartz of Stevens Co., Wash.

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<p>Grantor.</p> <p>CHAS. P. ROBBINS</p> <p>to</p> <p>JAMES CLARK,</p> <p style="text-align: right;">Grantee.</p> <p>Consideration: \$1—</p> <p>Number of Witnesses: 2.</p>	<p>No. 6.</p> <p>Nature of Instrument. Mining Deed.</p> <p>Date of Instrument. Sept. 25, 1896.</p> <p>Date of Acknowledgment. Sept. 25, 1896.</p> <p>Date of Filing. Oct. 24, 1896.</p> <p>Where Recorded. Book D of Deeds, Page 93</p>
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Acknowledged before W. C. Morris, Notary Public, Marcus, Wash.

DESCRIPTION OF PROPERTY AND REMARKS.

An undivided one-fourth ($\frac{1}{4}$) interest in the "Surprise" Mining Claim, Eureka Dist., Stevens County, Wash. Recorded Book M, page 228.

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<p>Grantor.</p> <p>PHILIP CREASOR</p> <p>to</p> <p>JAMES CLARK,</p> <p style="text-align: right;">Grantee.</p> <p>Consideration: \$1—</p> <p>Number of Witnesses: 2.</p>	<p>No. 7.</p> <p>Nature of Instrument. Mining Deed.</p> <p>Date of Instrument. Sept. 25, 1896.</p> <p>Date of Acknowledgment. Sept. 25, 1896.</p> <p>Date of Filing. Oct. 24, 1896.</p> <p>Where Recorded. Book D of Deeds, Page 97</p>
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Acknowledged before W. C. Morris, Notary Public, Marcus, Wash.

DESCRIPTION OF PROPERTY AND
REMARKS.

An undivided one-twelfth (1-12) interest in the
"Pearl" Mining Claim, Eureka Dist., Stevens
Co., Wash. Recorded in Book Q of Quartz, page 550

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Grantor.	No. 8.
PHILLIP CREASOR, THOMAS	Nature of Instrument.
RYAN, CHARLES P. ROB-	Mining Deed.
BINS and DENNIS CLARK	Date of Instrument.
	June 9, 1897.
to	Date of Acknowledgment.
JAMES CLARK,	June 9, 1897.
Grantee.	Date of Filing.
	June 15, 1897.
Consideration: \$1—	Where Recorded.
Number of Witnesses: 1.	Book H. of Deeds, Page 525

Acknowledged before W. J. C. Wakefield, Notary Public, Spokane, Wash.

DESCRIPTION OF PROPERTY AND
REMARKS.

All their right, title & interest in the "Surprise"
"Last Chance" and "Lone Pine" Mining Claims
Eureka Mining District, Stevens County, Wash.

Also covers other property; hence Dennis.

<p>Grantor.</p> <p>PHILIP CREASOR and CHAS. P. ROBBINS</p> <p>to</p> <p>JAMES CLARK,</p> <p style="text-align: right;">Grantee.</p>	<p>No. 9.</p> <p>Nature of Instrument. Mining Deed.</p> <p>Date of Instrument. July 6, 1897.</p> <p>Date of Acknowledgment. July 6, 1897.</p> <p>Date of Filing. July 19, 1897.</p> <p>Where Recorded. Book F of Deeds, Page 88</p>
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Consideration: \$5—

Number of Witnesses: 2.

Acknowledged before W. J. C. Wakefield, Notary
Public, Spokane, Wash.

DESCRIPTION OF PROPERTY AND REMARKS.

All their right, title & interest in and to the "Pearl"
Mining Claim in Eureka Mining District, Stevens
County, Wash.

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TAXES.

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No. 10

YEAR.

REMARKS.

1891

1892

1893

1894

1895

1896

1897

1898

1899

1900

}

I hereby certify that there are no taxes due and unpaid on the lands described in the Caption hereto, and that there are no tax sales of said land unredeemed and that no tax deeds have been given thereon.

Dated, Dec. 1, 1897.

E. D. MINER,
Abstracter.

From the Office of
JNO. L. METCALFE,
Auditor Stevens County,
Colville, - - - - Wash.

—52

State of Washington,
County of Stevens,—ss.

I, Jno. L. Metcalfe, Auditor of said County, do hereby certify that the foregoing is a true, full and correct abstract of the title of the "Pearl," "Surprise," "Last Chance" & "Lone Pine" lodes therein described, as the same appears of record in said office, and shows all location certificates, deeds or other instruments appearing of record, purporting to convey or affect the same.

WITNESS my hand and seal of said office this 1st day of December, A. D., 1897.

JNO. L. METCALFE,
County Auditor.

TAXES.

YEAR.		REMARKS.
1891	}	
1892		
1893		
1894		
1895		
1896		
1897		
1898		
1899		
1900		

I hereby certify that there are no taxes due and unpaid on the lands described in the Caption hereto, and that there are no tax sales of said land unredeemed and that no tax deeds have been given thereon.

Dated, Dec. 1, 1897.

E. D. MINER,
Abstracter.

JUDGMENTS AND OTHER LIENS.

Plaintiff.	Defendant.	Amount and Date.	When Satisfied.
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State of Washington,
County of Stevens,—ss.

I, the undersigned, do hereby certify that the foregoing 10 sheets (exclusive of the Caption) contains a full and correct abstract of all conveyances, Mortgages, Bonds for Deed, Mechanic's Liens or other instruments of writing now on record in the office of the County Auditor in and for said county, which in any way effect the title to the land described in the Caption hereto, and that there are no judgments rendered in any of the Courts of said County which are a lien on said premises except as shown in this abstract.

Witness my hand this 1st day of Dec. 1897.

E. D. MINER,
Abstracter.

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Survey #363.

Abstract of Title

—to the Following—

Real Estate:

The "Pearl," "Surprise," "Last Chance" and "Lone Pine" Mining Claims, Eureka Mining District.

U. S. Land Office,
Spokane, Washington.

Filed Dec. 29-97.
Matthew E. Logan,
Register.

Prepared by.
E. D. MINER,
Abstracter of Titles,
Colville,
Stevens County, Washington.

Request of Forster & Wakefield.

Date June 23, 1897.

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Patent to contain reservation according to proviso
to the Act of August 30, 1890.

[4-201.]

N. REGISTER'S FINAL CERTIFICATE OF
ENTRY.

Mineral Entry

No. 23. 9 Colville.

Min. Survey No. 363.

UNITED STATES LAND OFFICE

at Spokane Falls, Wash.

February 8, 1898.

It is hereby certified that in pursuance of the provisions of the Revised Statutes of the United States, Chapter Six, Title Thirty-two and legislation supplemental thereto, James Clark, whose Post-office address is Spokane, Wash., on this day purchased the Mining Claims known as the "Lone Pine," "Pearl," "Surprise" and "Last Chance" Lodes. Section —, in Township No. —, — of Range No. — meridian, designated as Min. Survey No. 363, said Min.

Survey, No. 363 extending ^{Lot} 1468 ^{Lot} 12/100 feet in length

along said "Lone Pine," 1499 18/100 feet in length
along said "Pearl," 1499 06/100# feet in length
along said "Surprise," and 1467 07/100# feet in
length along said "Last Chance" vein or lode, ex-
pressly excepting and excluding from said purchase
all that portion of the ground embraced in mining
claim—or survey—designated as Min. Survey No.

Lot

365, being acreage in conflict between the "Lone Pine"
and the "Black Tail" Lodes, amounting to 0.217,
acre#, and also all that portion of any vein or lode
the top or apex of which lies inside of said excluded
ground; said Lode Mining claims as entered, em-
bracing 60-769,# acres, and said Mill-Site claim —
acres, in the Eureka Mining District, in the County
of Stevens and state of Washington as shown by the
plat and field-notes of survey thereof, for which the
said party first above named this day made payment
to the Receiver in full, amounting to the sum of three
hundred and five (305.00) dollars.

Now, therefore, be it known that upon the presenta-
tion of this Certificate to the Commissioner of the
General Land Office, together with the plat and field-
notes of survey of said claim and the proofs required
by law, a Patent shall issue thereupon to the said
James Clark if all be found regular.

Act of Feb. 20-1896, (29 Stat., 9).

MATTHEW E. LOGAN,

Register.

#1499.6
#1467.7

#Area 58.345 acres. C. T. Y.
#Also conflict incl. sur. 374.

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REGISTER'S FINAL CERTIFICATE OF
ENTRY.

Mineral Entry No. 23.9 Colville.

for the

Mining Claims known as the

"Lone Pine," "Pearl," "Surprise," and "Last
Chance" Lodes

Min. Survey No. 363.

~~Lot~~

2 check marks.

26694.

Feby. 8/98.

—56

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[4-145]

RECEIVER'S RECEIPT.

(Duplicate to be given the Purchaser.)

Duplicate

Mineral Entry No. 23.

Mineral Survey No. 363.

~~Lot~~

UNITED STATES LAND OFFICE

at Spokane Falls, Wash.

February 8, 1898.

Received from James Clark the sum of three hundred and five (305.00) dollars, the same being pay-

ment in full for the area embraced in the Mining Claims known as the "Lone Pine," "Pearl," "Surprise" and "Last Chance" Lodes, —, in Township No. — of Range No. — meridian, designated as Min. Survey No. 363 said Min. Sur. No. 363 extend-

~~Lot~~

~~Lot~~

ing 1468 12/100 feet in length along said "Lone Pine," 1499 18/100 feet in length along said "Pearl," 1499 06/100 feet in length along said "Surprise" and, 1467 07/100 feet in length along said "Last Chance" vein or lode, expressly excepting and excluding from this sale and Entry all that portion of the ground embraced in mining claim — or Survey designated Min. Survey No. 365, being acreage

~~Lot~~

in conflict between the "Lone Pine" and the "Black Tail" Lodes, amounting to 0.217, acres; and also all that portion of any vein or lode the top or apex of which lies inside of said excluded ground; said Lode Mining claims as entered embracing 60-769 acres and said Mill-Site claim — acres, in the Eureka Mining District, in the County of Stevens and state of Washington, as shown by the survey thereof.

\$305.00/100.

L. M. FLOURNOY,
Receiver.

—57

30698

RECEIVER'S RECEIPT

in

9

Mineral Entry No. 23.

Colville Series

in case of

the Mining Claim known as the
“Lone Pine,” “Pearl,” “Surprise” and “Last
Chance”

Min. Survey

~~Lot~~ No. 363.

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U. S. Land Office.

Spokane Falls, Wash.

Mch. 16-99.

Min. Patent No. 30698—Cert. No. 9, Colville Series,
delivered to Forster & Wakefield for Patentee
this day in this office.

WILLIAM H. LUDDEN,

10298b-5m

Register.

1899 41174 2

RECEIVER'S RECEIPT.

(Duplicate to be given the Purchaser.)

Mineral Entry No. 23. 9 Colville.

Min. Survey No. 363.

~~Lot~~

UNITED STATES LAND OFFICE.

at Spokane Falls, Wash.

February 8, 1898.

Received from James Clark the sum of three hundred and five (305.00) dollars, the same being payment in full for the area embraced in the Mining Claims known as the "Lone Pine," "Pearl," "Surprise" and "Last Chance" Lodes; Min. Survey No.

~~Lot~~

363, said Min. Survey No. 363 extending 1468 12/100

~~Lot~~

feet in length along said "Lone Pine," 1499 18/100 feet in length along said "Pearl," 1499 06/100 feet in length along said "Surprise" and 1467 07/100 feet in length along said "Last Chance" vein or lode, expressly excepting and excluding from this sale and Entry all that portion of the ground embraced in mining claim or Survey designated as Min. Survey, No. 365, being acreage in conflict between the "Lone Pine" and the "Black Tail" Lodes, amounting to 0.217 acres, and also all that portion of any vein or lode the top or apex of which lies inside of said excluded ground; said Lode Mining claims as entered embracing 60-769 acres and said Mill-Sites claim —

614 *Northport Smelting & Refining Co. vs.*

acres, in the Eureka Mining District, in the County of Stevens and state of Washington, as shown by the survey thereof.

\$305.00/100.

Act of Feb. 20-96 (29 Stat., 9).

L. M. FLOURNOY,
Receiver.

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RECEIVER'S RECEIPT.

in

Mineral Entry No. ~~23~~ 9 Coville.

in case of

the Mining Claim known as the
“Lone Pine,” “Pearl,” “Surprise” and “Last
Chance” Lodes.

Mineral Survey,

~~Lot~~ No. 363.

10298b-5m

6-375

—60

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C. T. Y.

M. O. H. G. P.

“N.”

J. V. W.

February — , 1899.

Register and Receiver,

Spokane Falls, Washington.

Sirs:

July 11, 1898 you were directed to notify claimant, James Clark, who made mineral entry No. 9 (Coville series) Feb. 8, 1898, for the Last Chance and other lode claims, that he would be allowed 60 days from notice within which to show cause why his said entry should not be canceled as to that portion

thereof in conflict with the Micawber lode survey No. 365 or to appeal, and at the same time to advise him that an amended survey would have to be made conforming to waiver in favor of Black Girl lode and showing the exclusion of said conflict.

It now appears that due notice thereof was served upon said claimant, and though more than 60 days have elapsed no action has been taken except to furnish the amended plat as above set forth, which was forwarded by the Surveyor-General by letter of January 25, 1899.

In view of the foregoing, said mineral entry No. 9 is hereby canceled on the records of this office as to

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its conflict with survey No. 365 for the Micawber lode claim, and the entry as amended approved for patenting.

Note the same on your records and advise the party in interest thereof.

Very respectfully,

BRUGER HAMMOND,

Commissioner.

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C. T. Y.

H. G. P.

July 11, 1898.

Register and Receiver,

Spokane Falls, Washington.

Sirs:

Referring to mineral entry No. 9 (Colville series) made February 8, 1898 by James Clark for the Last

Chance, Lone Pine, Pearl and Surprise lode claims, survey No. 363, I find that said entry includes that portion of the Last Chance in conflict with the Macawber lode claim, survey No. 374. Both claims were located on the same day, to wit: February 29, 189—. The latter location was filed for record March 5, 1896. Application for patent filed October 7, 1897, Publication had from October 14 to December 16, 1897, and entry made January 3, 1898.

The Last Chance location was recorded March 13, 1896. Application for patent filed October 27, 1897. Publication had from November 4, 1897, to January 6, 1898, and entry made February—1898. No adverse protest or objection was offered against the Macawber, whereupon entry was allowed for the entire claim as applied for, including the portion in conflict.

It must from the above statement of facts, be held that the Macawber's rights, are paramount, and that the portion in conflict with the Last Chance must be

—2—

N

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excluded from the latter's entry.

You will notify claimant hereof and advise him that he will be allowed sixty days from notice to show cause why his said entry should not be canceled as to the conflict named, or to appeal, that in the case of default the same will be canceled as stated without further notice from this office. At the same time advise him that the surveyor-general has by letter of even date been directed, upon the request of claimant, to have an amended survey made conforming to waiver in favor of the Black Girl lode claims.

Serve notice and make report in accordance with the circular of October 28, 1886, (5 L. D. 20—).

Very Respectfully,

Commissioner.

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C. T. Y.

H. G. P.

July 8, 1898.

U. S. Surveyor General,
Olympia, Washington.

Sir:

Washington,

Referring to Spokane Falls, ~~Montana~~, mineral entry No. 9 (Colville series) made February 8, 1898, by James Clark for the Last Chance and other lode claims, survey No. 363, I inclose herewith a waiver by claimant as to that portion of the Lone Pine lode in conflict with the Black Tail lode claim, You will after due notice to, and on the proper request of claimant, have an amended survey made conforming thereto. By letter of even date the register and receiver were directed to notify claimant of the action of this office in holding his said entry for cancellation to the extent of conflict with the Macawber lode claim. Should no appeal be taken therefrom, the amended survey should also conform thereto.

When completed promptly forward the amended survey to this office.

Very respectfully,

Commissioner.

W. McMICKEN,
Surveyor General.

A. B. COWLES,
Chief Clerk.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
OFFICE OF U. S. SURVEYOR GENERAL,
For the State of Washington.

Olympia, January 25, 1899.

The Commissioner of the General Land Office,
Washington D. C.

Sir:

Referring to your letter "N," dated July 8, 1898, in the matter of mineral entry No. 9 (Colville series) made February 8, 1898 by James Clark, for the Last Chance and other lode claims, survey No. 363, I have the honor to transmit in separate package the field notes and plat of amended mineral survey No. 363, as directed in said letter.

One copy of the plat has also been forwarded to the Register of the U. S. Land Office, Spokane, Washington.

Very respectfully,

W. McMICKEN,
U. S. Surveyor General, Washington.

U. S. GENERAL LAND OFFICE.

Received Jan. 31, 1899.

12712.

U. S. Surveyor General's Office,

State of Washington,

Olympia, Jany. 25, 1899.

Relating to.....

Referring to letter "N," July 8, 1898, transmits plat and field notes of mineral survey No. 363, mineral entry No. 9 (Colville Series).

N. Z Encls.

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W. McMICKEN,
Surveyor General.

A. B. COWLES,
Chief Clerk.

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

OFFICE OF U. S. SURVEYOR GENERAL,

For the State of Washington.

Olympia, October 26, 1898.

The Commissioner of the General Land Office,
Washington D. C.

Sir:

Referring to your letter "N," dated October 21, 1898, requesting a report in the matter of Spokane, Washington, M. E. No. 9 (Colville Series), survey No. 363, by James Clark, for the Last Chance and other lode claims, I have the honor to report that, as directed in your letter "N," dated July 8, 1898,

after due notice to, and on the proper request of, claimant, an amended survey was ordered under date of August 25, 1898, by deputy J. C. Ralston, who is now engaged in perfecting his returns of survey. When properly completed the amended survey will be promptly forwarded to your office.

Very respectfully,

W. McMICKEN,
U. S. Surveyor General, Washington.

—68

155-40

U. S. GENERAL LAND OFFICE,

Received Nov. 2, 1898.

113645.

U. S. SURVEYOR GENERAL'S OFFICE,

State of Washington,

Olympia, Oct. 26, 1898.

Relating to M. E. No. 9, Washington. Report as to Last Chance and other lodes, Survey #363, James Clark. When notes are completed and filed, returns will be made to General Land Office. Refers to letter "N," Oct. 21, 1898 (C. T. Y.) & letter "N," July 8, 1898 (C. T. Y.).

Case—No ans. reqd. Case. C. T. Y. An 4/98. N.

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DEPARTMENT OF THE INTERIOR,

UNITED STATES LAND OFFICE,

Spokane Falls, Wash.

July 20, 1898.

I hereby accept service of notice of contents of

Commissioners letter 3932 N. of July 11—1898 in re Mineral entry No. 9 (Colville Series) made Feb. 8, 1898 by James Clark for the Last Chance, Lone Pine, Pearl and Surprise lode claims and of the conflict of the Last Chance with the Micawber lode claim No. 374.

Also of the direction given the Surveyor General, upon request of claimant, to have an amended survey made conforming to waiver in favor of the Black Tail lode claim.

W. J. C. WAKEFIELD,
Attorney for James Clark.

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UNITED STATES LAND OFFICE,
Spokane Falls, Wash.

Oct. 13, 1898.

Book 11-311

Hon. Commissioner,
General Land Office,
Washington, D. C.

Sir: In response to your letter "N" of July 11, 1898, referring to Mineral entry No. 9 (Colville Series) by James Clark for the "Last Chance," "Lone Pine," "Pearl" and "Surprise" lode claims.

We have the honor to report that on July 20, 98, we served notice of the contents of said letter "N" of July 11, 98, upon W. J. C. Wakefield, atty. for James Clark, and *taken* his receipt therefor.

More than 60 days having elapsed since making said service, and no action having been taken, we now

make report and inclose the proof of service, for your consideration.

Very respectfully,

WILLIAM H. LUDDEN,

Register.

—71

120-40

U. S. GENERAL LAND OFFICE,

Received Oct. 19, 1898.

107845

U. S. LAND OFFICE,

Spokane Falls, Wash.

Oct. 13, 1898.

Register transmits Report and inclose proof of service, and report, no action taken. In Mineral Entry No. 9 (Colville series) of James Clark, involving the "Last Chance" and 3 other Claims of Sec. Tp.——, R.—— Reference is had to letter N of July 11, 1898.

C. T. Y.

N. 1-E.

—72

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UNITED STATES LAND OFFICE,

Spokane Falls, Washington.

February 23, 1898.

Book 10-414,

Hon. Commissioner,

General Land Office,

Washington, D. C.

Sir:

On Feb. 8, 1898 final receipt and final certificate

issued to James Clark upon the "Lone Pine," "Pearl" "Surprise" and "Last Chance" mining claims, and under the Circular of July 6, 1897 all the papers in the case are herewith transmitted to your office.

Very respectfully,

MATTHEW E. LOGAN,

Register.

L. M. FLOURNOY,

Receiver.

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U. S. GENERAL LAND OFFICE,

Received Mar. 2, 1898.

21649.

U. S. LAND OFFICE,

Spokane Falls, Wash.

Feb. 23, 98.

Register and Receiver transmits Papers, in Final
Mineral Entry No. 23., Mineral Survey No. 363,
in
of
involving the
.....of Sec.....
Tp.R.
Reference is had to letter.....of.....
Dec.....,189

N. O. R. 17-E,

PROOF OF POSTING NOTICE AND DIAGRAM
ON THE CLAIM.

State of Washington,
County of Stevens,—ss.

James Richey

John Bresnahan and ~~P. Kendregen~~ each for himself, and not one for the other, being first duly sworn, according to law, deposes and says, that he is a citizen of the United States, over the age of twenty-one years, and was present on the 23rd day of October, A. D. 1897, when plats representing the claims of James Clark, being a consolidated mining claim, and certified as correct by the United States Surveyor General of Washington, and designated by him as survey number 363, together with notices of the intention of said James Clark to apply for a patent for the claims and premises so platted, were posted in a conspicuous place upon said mining claims, to-wit: One upon the Surprise lode claim, upon a tree adjoining a tunnel on said claim; one upon the Pearl lode claim, upon the discovery post on said claim; one upon the Lone Pine lode claim, upon the portal of tunnel No. 1 on said claim; and one upon the Last Chance claim, upon the discovery post on said claim, and all of them being where the same could be easily seen and examined, a copy of the notices so conspicuously posted upon said claims is herewith attached and made a part of this affidavit.

JOHN BRESNAHAN.

JAMES RICHEY.

Subscribed and sworn to before me this 23rd day of October, A. D. 1897. And I hereby certify that I consider the above deponents credible and reliable witnesses and that the foregoing affidavit and notice

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were read by each of them before their signatures were affixed thereto and the oath made by them.

CHARLES P. ROBBINS,
Notary Public in and for the State of Washington,
Residing at Eureka Camp, Stevens County,
State of Washington.

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B-20

NOTICE OF APPLICATION FOR U. S.
PATENT.

Survey No. 363. United States Land Office,
Spokane, Washington, October 23d 1897.

NOTICE IS HEREBY GIVEN, that in pursuance of the Act of Congress, approved May 10, 1872, James Clark, whose postoffice address is Spokane, Spokane County, State of Washington, has made application for a patent for 1499.6 linear feet on the Surprise lode, bearing N. 14° 58' W., bearing gold, with surface ground 521 feet in width, and for 1499.18 linear feet on the Pearl lode, bearing N. 33° 26' 27" W., bearing gold, with surface ground 504.6 feet in width, and for 1468.12 linear feet of the Lone Pine lode, bearing N. 27° 24' 39" W., with surface ground 600 feet in width, bearing gold, and for 1467.7 linear feet on the Last Chance lode, bearing N. 2° 30' W., bearing gold, with surface ground 600 feet in width,

being a consolidated mining claim, and all being situated in Eureka Mining District, Stevens County, State of Washington, and described by the official plat herewith posted and by the field notes on file in the office of the Register of Spokane Land District, Washington, and which field notes of survey describe the boundaries and extent of said claims on the surface with magnetic variations at $21^{\circ} 45'$ to $24^{\circ} 45'$ E. as follows, to-wit:

SURPRISE LODGE.

Beginning at the N. E. corner No. 1, whence the S. W. corner Section 36, T. 37 N. R. 32 E. Willamette Meridian bears S. $58^{\circ} 27' 06''$ E. 6463.65 feet and running thence S. $60^{\circ} 19'$ W. 367 feet to N. W. corner post No. 2, thence S. $12^{\circ} 11' 39''$ E. 1520.68 feet to S. W. corner post No. 3, thence N. $60^{\circ} 19'$ E. 521 feet to S. E. corner post No. 4, thence N. $17^{\circ} 53'$ W. 1481.7 feet to corner No. 1 and place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County, at Colville, in the State of Washington, in Book M of Quartz Claims at page 228 the presumed general course or direction of the said Surprise vein, lode or mineral deposit being shown on the plat posted herewith as near as can be determined from present developments, this claim being for 1499.6 feet linear thereof together with the surface ground shown upon the official plat posted herewith, the said vein, lode and mining premises hereby sought to be patented being bounded on the East by the Black Tail lode, on the North by the Pearl lode, and on the South by the Quilp lode.

PEARL LODGE.

Beginning at N. E. corner post No. 1, whence the S. W. corner Sec. 36, T. 37 N. R. 32 E. Willamette Meridian bears S. $52^{\circ} 45' 36''$ E. 7784.82 feet and running thence S. $60^{\circ} 19'$ W. 504.6 feet to corner No. 2, the N. W. corner post, thence S. $33^{\circ} 26' 27''$ E. 1499.18 feet to corner No. 3, the S. W. corner post thence N. $60^{\circ} 19'$ E. 347 feet to corner No. 4, the S. E. corner post, thence N. $27^{\circ} 24' 39''$ W. 1497.14 feet to corner No. 1, the place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County, at Colville, in the State of Washington, in Book Q of Quartz Claims at page 550 the presumed general course or direction of said Pearl vein, lode or mineral deposit being shown upon the plat posted herewith as near as can be determined from present developments; this claim being for 1499.18 feet linear thereof, together with the surface ground shown upon the official plat posted herewith, the said vein, lode and mining premises hereby sought to be patented being bounded on the East by the Lone Pine Lode, on the South by the Surprise Lode and on the North by the Little Cove lode.

LONE PINE LODGE.

Beginning at the S. W. corner No. 1, whence the S. W. corner Section 36 T. 37 N. R. 32 E. Willamette Meridian bears S. $58^{\circ} 27' 06''$ E. 6463.65 feet, and running thence N. $81^{\circ} 23'$ E. 585.9 feet to corner No. 2, the S. E. corner, thence N. $25^{\circ} 55'$ W. 1455.7 feet to corner No. 3, the N. E. corner, thence S. 81°

23' W. 626 feet to corner No. 4, the N. W. corner, thence S. $27^{\circ} 24' 39''$ E. 1468.12 feet to corner No. 1, the place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County, at Colville, in the State of Washington, in Book M of Quartz Claims at page 230. The presumed general course or direction of the said Lone Pine Vein, lode or mineral deposits being shown upon the plat posted herewith, as near as can be determined from present developments; this claim being for 1468.12 feet linear thereof, together with the surface ground shown upon the official plat posted herewith, said vein, lode and mining premises hereby sought to be patented being bounded on the east by the Last Chance Lode, and on the south by the Black Tail lode, and on the west by the Pearl lode.

LAST CHANCE LODGE.

Beginning at the S. E. corner No. 1, whence the S. W. corner Section 36, T. 37, N. R. 32 E. Willamette Meridian bears S. $58^{\circ} 53' 44''$ E. 5496.63 feet and running thence N. $4^{\circ} 35' 19''$ E. 1379.23 feet to N. E. corner post N. 2, thence N. $62^{\circ} 19'$ W. 665 feet to N. W. corner post No. 3, thence S. $11^{\circ} 13'$ E. 1630.2 feet to S. W. corner post No. 4, thence S. $62^{\circ} 19'$ E. 182.31 feet to corner No. 1, the place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County at Colville, in the State of Washington, in Book M of Quartz Claims at page 229 the presumed general course or direction of said Last Chance Vein, lode or mineral deposit being shown upon the plat posted herewith as near as can be determined from present developments,

this claim being for 1467.7 feet linear thereof, to-

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gether with the surface ground shown on the official plat posted herewith, the said vein, lode and mining premises hereby sought to be patented being bounded by the Micawber lode on the east, the Black Tail lode on the south and west and the Lone Pine on the west.

AREA.

Total area of Surprise lode,.....	14.783 acres.
Total area of Pearl lode,.....	14.623 “
Total area of Lone Pine lode,.....	19,333 “
Total area of Last Chance Lode,	12.339
Conflict with Lone Pine.....	.092

Net area Last Chance lode....12.247

12,247 “

Total area lodes.....60.986 acres.

JAMES CLARK.

Witness:

JOHN BRESNAHAN.

JAMES RICHEY.

Dated on the ground this 23d day of October,
A. D. 1897.

—79

Appli.

Mineral ~~Entry~~ #25, Survey #363. Re “Lone Pine” “Last Chance” “Pearl” and “Surprise” Mining Claims, being a consolidated mining claim. Proof of Posting Notice and Diagram on Claims.

U. S. Land Office, Spokane, Washington. Filed Oct. 27, 97. Matthew E. Logan, Register.

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PUBLISHER'S CONTRACT.

I, the undersigned publisher and proprietor of the "Reservation Record," a weekly newspaper published in Nelson, Stevens County, State of Washington, hereby agree to publish a notice, dated U. S. Land Office, Spokane, Washington, October 23d, 1897, required by Act of Congress, approved May 10, 1872, of the intention of James Clark to apply for a patent for his consolidated mining claim on the Last Chance, Lone Pine, Pearl and Surprise lodes, situate in Eureka Mining District, County of Stevens, State aforesaid, and to hold the said James Clark alone responsible for the amount of our bill for publishing the same. And it is hereby expressly stipulated and agreed that no claim shall be made against the Government of the United States, or its officers or agents, for such publication.

WITNESS my hand this 23d day of October A. D. 1897.

RUBE HULL,
Publisher.

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Appli.

Min. ~~Ent.~~ #25. Survey #363. Publisher's Contract. In re Last Chance, Lone Pine, Pearl, and Surprise Lodes. U. S. Land Office Spokane, Washington. Filed Oct. 27, 97. Matthew E. Logan, Register.

PROOF THAT PLATS AND NOTICES REMAINED POSTED ON CLAIMS DURING TIME OF PUBLICATION.

State of Washington,
County of Spokane,—ss.

James Clark, being first duly sworn, according to law, deposes and says,—

That he is the claimant of the “Surprise” lode mining claim, “Pearl” lode mining claim, “Lone Pine” lode mining claim, and “Last Chance” lode mining claim, being a consolidated mining claim, official survey No. 363, Eureka Mining District, Stevens County, State of Washington, the official plats of which premises, together with the notices of his intention to apply for a patent therefor, were posted thereon on the 23d day of October A. D. 1897, as fully set forth and described in the affidavit of John Bresnahan and James Richey, dated the 23d day of October A. D. 1897, which affidavit was duly filed in the office of the Register at Spokane Falls, Spokane County, State of Washington, and that the plats and notices so mentioned and described remained continuously and conspicuously posted upon said mining claims from the 23d day of October A. D. 1897, until and including the 6th day of January A. D. 1898, including the sixty three days period during which notice of said application for patent was published in the newspaper.

JAMES CLARK.

Subscribed and sworn to before me this 7th day of February, A. D. 1898, and I hereby certify that the foregoing affidavit was read to the said James Clark

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previous to his name being subscribed thereto.

GEO. M. FORSTER,

Notary Public in and for the State of Washington,
Residing at Spokane, Wash.

My commission expires on the 4 day of Nov. 1899.

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Survey No. 363. "Lone Pine" Group. Proof that Plats and Notices Remained Posted on Claims During Time of Publication. U. S. Land Office, Spokane, Washington. Filed Feb. 7, 98. Matthew E. Logan, Register.

—85

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AFFIDAVIT OF FIVE HUNDRED DOLLARS IMPROVEMENT.

State of Washington,
County of Stevens,—ss.

John Bresnahan & F. A. Williamson, of lawful age being first duly sworn according to law depose & say that they are acquainted with the Lone Pine, Last Chance, Surprise, & Pearl Mining Claims in Eureka Mining District, County & State of aforesaid, for which James Clark has made application for patent under the provisions of Chapter Six Title Thirty two of the Revised Statutes of the United States & that the labor done and improvements made thereon by

the applicant & his grantors exceed five hundred dollars in value & said improvements consist of the discovery cut of the Lone Pine Lode, \$10.00. Lone Pine tunnel One hundred & eighteen (118) feet in length \$2360.00. A blacksmith shop on the Lone Pine Lode \$50.00, the discovery cut of the Pearl Lode \$100.00. A Boarding & Bunk Cabin on the Pearl Lode \$150.00. The discovery cut of the Surprise Lode \$25.00 & the discovery cut of the Last Chance Lode \$12.00 total value \$2707.00.

JOHN BRESNAHAN.

F. A. WILLIAMSON.

Subscribed and sworn to before me this 28th day of Sept. 1897.

[Seal]

CHARLES ROBBINS,

Notary Public.

Residing at Eureka Camp, State of Washington.

—85½

No. 25. Affidavit of \$500. Improvements on Lone Pine Group. U. S. Land Office, Spokane, Washington. Filed Oct. 27, 97. Matthew E. Logan, Register.

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PROOF OF SUMS PAID.

State of Washington,
County of Spokane,—ss.

JAMES CLARK, having been first duly sworn, according to law, deposes and says,— That he is a citizen of the United States, over the age of twenty-one years; that he is the applicant for patent to 1499.6 feet upon the “Surprise” lode, 1499.18 feet

upon the "Pearl" lode, 1468.12 feet upon the "Lone Pine" lode, and 1467.7 feet upon the "Last Chance" lode, being a consolidated mining claim, official survey No. 363, in Eureka Mining District, Stevens County, State of Washington, that in the prosecution of such application he has paid the following sums of money, viz.,—

For Office Work in the Surveyor General's Office.	\$120.00
To J. C. Ralston, Deputy Surveyor, for surveying and platting.....	340.00
To Register and Receiver for filing application in Land Office.....	10.00
To Register and Receiver for filing adverse on conflict between "Surprise" lode mining claim and "Black Tail" lode mining claim, official survey #365.....	10.00
To Register and Receiver for filing adverse on conflict between "Pearl" lode mining claim and said "Black Tail" lode mining claim, official survey #365.....	10.00
To Register and Receiver of Land Office for filing adverse on conflict between said "Surprise" lode mining claim and the "Quilp" lode mining claim, official survey No. 375.....	10.00
To "The Reservation Record" for publication of notice of application.....	104.50
To the Receiver of the Local Land Office for Land.	305.00
	<hr/>
	\$909.50

JAMES CLARK,

Subscribed and sworn to before me Geo. M. Forster this 7th day of February, A. D. 1898. And I hereby certify that I consider the above deponent a credible and reliable witness, and that the foregoing affidavit was read by him before his signature was affixed thereto and the oath made by him.

GEO. M. FORSTER,

Notary Public in and for the State of Washington,
residing at Spokane, Wash.

My commission expires on the 4 day of Nov. 1899.

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Survey No. 363. "Lone Pine" Group. Proof of sums paid. U. S. Land Office, Spokane, Washington. Filed Feb. 7, 98. Matthew E. Logan, Register.

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NOTICE OF APPLICATION FOR UNITED STATES PATENT.

Mineral application No. 25. Survey No. 363.

Posted on claims October 23, 1897. United States Land Office; Spokane Falls, Washington, October 23, 1897.

NOTICE IS HEREBY GIVEN, that in pursuance of the Act of Congress, approved May 10, 1872, James Clark, whose postoffice address is Spokane, Spokane County, State of Washington, has made application for a patent for 1499.6 linear feet on the

Surprise lode, bearing north 14 degrees 53 minutes west, bearing gold, with surface ground 521 feet in width, and for 1499.18 linear feet on the Pearl lode, bearing north 33 degrees 25 minutes 27 seconds west, bearing gold, with surface ground 504.6 feet in width, and for 1468.12 linear feet of the Lone Pine lode, bearing north 27 degrees 24 minutes 30 seconds west, with surface ground 600 feet in width, bearing gold, and for 1467.7 linear feet on the Last Chance lode, bearing north 2 degrees 30 minutes west, bearing gold, with surface ground 600 feet in width being a consolidated mining claim, and all being situate in Eureka Mining District, Stevens County, State of Washington, and described by the official plat herewith posted and by the field notes on file in the office of the Register of Spokane Falls Land District, Washington, and which field notes of survey describe the boundaries and extent of said claims on the surface with magnetic variations at 21 degrees 45 minutes to 21 degrees 45 minutes east, as follows, to wit:

SURPRISE LODE.

Beginning at the northeast corner No. 1, whence the southwest corner section 36, township 37 north, range 32 east, Willamette Meridian bears south 58 degrees 27 minutes 06 seconds east 6463.65 feet running thence south 60 degrees 19 minutes west 367 feet to northwest corner post No. 2, thence south 12 degrees 11 minutes, 39 seconds east, 1320.63, feet to southwest corner post No. 3, thence north 60 degrees 19 minutes east 521 feet to southeast corner post No. 4, thence north 37 degrees 33 minutes west

1481.7 feet to corner No. 1 and place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County, at Colville, in the State of Washington in Book M of Quartz Claims, at page 228, the presumed general course or direction of the said Surprise vein, lode or mineral deposit being shown on the plat posted herewith as near as can be determined from present developments, this claim being for 1499.6 feet linear thereof, together with the surface ground shown upon the official plat posted herewith, the said vein, lode and mining premises hereby sought to be patented being bounded on the east by the Black Tail lode, on the North by the Pearl lode, and on the south by the Quilp lode.

PEARL LODGE.

Beginning at northeast corner post No. 1, whence the southwest corner section 36, township 37 north, range 32 east, Willamette Meridian bears south 52 degrees 45 minutes 36 seconds east 778.82 feet and running thence south 30 degrees 19 minutes west 504.6 feet to corner No. 2, the northwest corner post thence south 33 degrees 26 minutes 27 seconds east 1429.18 feet to corner No. 3, the southwest corner post, thence north 60 degrees 19 minutes east 347 feet to corner No. 4, the southeast corner post, thence north 27 degrees 21 minutes 39 seconds west 1497.14 feet to corner No. 1, the place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County, at Colville, in the State of Washington, in Book Q of Quartz Claims at page 550, the presumed general course or direction of

said Pearl vein, lode or mineral deposit being shown upon the plat herewith as near as can be determined from present developments; this claim being for 1499.18 feet linear thereof, together with the surface ground shown upon the official plat posted herewith, the said vein, lode and mining premises hereby sought to be patented being bounded on the east by the Lone Pine Lode, on the south by the Surprise Lode and on the north by the Little Cove lode.

LONE PINE LODGE.

Beginning at the southwest corner No. 1, whence the southwest corner Section 36, township 37 north, range 32 east, Willamette Meridian bears south 58 degrees 27 minutes 06 seconds east 6463.65 feet, and running thence north 81 degrees 23 minutes east 585.9 feet to corner No. 2, the southeast corner, thence north 25 degrees 55 minutes west 1455.7 feet to corner No. 3, the northeast corner, thence south 81 degrees 23 minutes west 626 feet to corner No. 4, the northwest corner, thence south 27 degrees 24 minutes 30 seconds east 1468.12 feet to corner No. 1, the place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County, at Colville, in the State of Washington, in Book M of Quartz Claims, at page 230. The presumed general course or direction of the said Lone Pine vein, lode or mineral deposit being shown upon the plat posted herewith, as near as can be determined from present developments; this claim being for 1468.12 feet linear thereof, together with the surface ground shown upon the official plat posted herewith, said vein lode and mining premises hereby sought to be patented

being bounded on the east by the Last Chance lode, on the south by the Black Tail lode, and on the west by the Pearl lode.

LAST CHANCE LODGE.

Beginning at the southeast corner No. 1, whence the southwest corner Section 36, Township 37, North Range 32 East Willamette Meridian bears south 58 degrees 53 minutes 44 seconds east 5496.63 feet and running thence north 4 degrees 35 minutes 19 seconds east 1379.23 feet to northeast corner post No. 2, thence north 62 degrees 19 minutes west 665 feet to northwest corner post No. 3, thence south 11 degrees 13 minutes east 1630.2 feet to southwest corner post No. 4, thence south 62 degrees 19 minutes east 182.31 feet to corner No. 1, the place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County at Colville, in the State of Washington, in Book M of Quartz Claims, at page 229, the presumed general course or direction of said Last Chance vein, lode or mineral deposit being shown upon the plat posted herewith as near as can be determined from present developments, this claim being for 1467.7 feet linear thereof, together with the surface ground shown on the official plat posted herewith, the said vein, lode, and mining premises hereby sought to be patented being bounded by the Micawber lode on the east, the Black Tail lode on the south and west and the Lone Pine lode in the west.

AREA.

Total area of Surprise lode.....14,783 acres.

Total area of Pearl lode.....14,623 acres.

Total area of Lone Pine lode.....19,333 acres.

Total area of Last Chance lode.12.339

Conflict with Lone Pine..... .092

 Net area Last Chance.....12.237

 12,247

 Total area lodes.....60.986 acres.

Any and all persons claiming adversely the surface ground, veins, lodes, premises or any portion thereof so described, surveyed, platted and applied for are hereby notified that unless their adverse claims are duly filed as according to law and the regulations thereunder with the Register and Receiver of the United States Land Office at Spokane Falls, Washington, during the sixty days period of publication hereof, they will be barred by virtue of the provisions of the statute.

MATTHEW E. LOGAN,

Register.

Date of first publication, November 4, 1897.

Date of last publication, January 6, 1898.

REGISTER'S CERTIFICATE OF POSTING
NOTICE FOR SIXTY DAYS.

UNITED STATES LAND OFFICE,

At Spokane Falls, Wash.,

February 7, 1898.

I hereby certify that the official plat of the Surprise, Pearl, Lone Pine & Last Chance lode, designated by the Surveyor General as ^{survey} ~~lot~~ No. 363, was filed in this office on the 27, day of Oct, A. D. 1897, and that a notice, of which the attached notice is a copy, of the intention of James Clark, to apply for a patent for the mining claim or premises embraced by said plat, and described in the field notes of survey thereof filed in said application, was posted conspicuously in this office on the 27 day of Oct, A. D. 1897, and remained so posted until the 7 day of Feb. A. D. 1898, being the full period of sixty consecutive days during the period of publication as required by law; and that said plat remained in this office during that time, subject to examination, and that no adverse claim thereto has been filed.

MATTHEW E. LOGAN,

Register.

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No. 25. Register's Certificate of Posting Notice for Sixty days. Application for a Patent to The Surprise, Pearl, Lone Pine & Last Chance, lode Mining Claims.

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NOTICE OF APPLICATION FOR UNITED STATES PATENT.

Mineral application No. 25. Survey No. 363.

Posted on claims October 23, 1897. United States Land Office; Spokane Falls, Washington, October 23, 1897.

NOTICE IS HEREBY GIVEN, that in pursuance of the Act of Congress, approved May 10, 1872, James Clark, whose postoffice address is Spokane, Spokane County, State of Washington, has made application for a patent for 1499.6 linear feet on the Surprise lode; bearing north 14 degrees 58 minutes west, bearing gold, with surface ground 521 feet in width, and for 1499.18 linear feet on the Pearl lode, bearing north 33 degrees 26 minutes 27 seconds west, bearing gold, with surface ground 504.6 feet in width, and for 1468.12 linear feet of the Lone Pine lode, bearing north 27 degrees 21 minutes 39 seconds west, with surface ground 600 feet in width, bearing gold, and or 1467.7 linear feet on the Last Chance lode, bearing north 2 degrees 30 minutes west, bearing gold, with surface ground 600 feet in width, being a consolidated mining claim, and all being situate in Eureka Mining District, Stevens County, State of Washington, and described by the

official plat herewith posted and by the field notes on file in the office of the Register of Spokane Falls Land District, Washington, and which field notes of survey describe the boundaries and extent of said claims on the surface with magnetic variations at 21 degrees 45 minutes to 24 degrees 45 minutes east, as follows, to wit:

SURPRISE LODGE.

Beginning at the northeast corner No. 1, whence the southwest corner section 36, township 37 north, range 32 east, Willamette Meridian bears south 58 degrees 27 minutes 06 seconds east 6463.65 feet and running thence south 60 degrees 19 minutes west 367 feet to northwest corner post No. 2, thence south 12 degrees 11 minutes, 39 seconds east, 1520.68 feet to southwest corner post No. 3, thence north 60 degrees 19 minutes east 521 feet to southeast corner post No. 4, thence north 17 degrees 53 minutes west 1481.7 feet to corner No. 1 and place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County, at Colville, in the State of Washington in Book M of Quartz Claims, at page 223, the presumed general course or direction of the said Surprise vein, lode or mineral deposit being shown on the plat posted herewith as near as can be determined from present developments, this claim being for 1499.6 feet linear thereof, together with the surface ground shown upon the official plat posted herewith, the said vein lode and mining premises hereby sought to be patented being bounded on the east by the Black Tail lode, on the North by the Pearl lode, and on the south of the Quilp lode.

PEARL LODE.

Beginning at northeast corner post No. 1, whence the southwest corner section 36, township 37 north, range 32 east, Willamette Meridian bears south 52 degrees 45 minutes 36 seconds east 7784.82 feet and running thence south 60 degrees 19 minutes west 504.6 feet to corner No. 2, the northwest corner post, thence south 33 degrees 26 minutes 27 seconds east 1499.18 feet to corner No. 3, the southwest corner post, thence north 60 degrees 19 minutes east 347 feet to corner No. 4, the southeast corner post, thence north 27 degrees 24 minutes 39 seconds west 1497.14 feet to corner No. 1, the place of beginning, the said mining [Remainder missing from record].

AFFIDAVIT OF PUBLICATION.

State of Washington,
County of Stevens,—ss.

Rube Hull on oath declares that he is one of the publishers of The RESERVATION RECORD, a newspaper published each and every Thursday in the Town of Nelson, County of Stevens, State of Washington, and that the notice of application for U. S. Patent a printed copy of which is hereto annexed, dated October 23, 1897, relating to application for patent for the Surprise, Pearl, Lone Pine and Last Chance lodes was published in the aforesaid newspaper, in its regular edition (and not in a supplement thereof) once a week for 10 consecutive weeks, beginning in the issue date November 4, 1897 and ending in that dated January 6, 1898, and that the aforesaid newspaper was generally circulated and delivered and

mailed to its subscribers throughout the county and state aforesaid during that period.

RUBE HULL,
Publisher.

Subscribed and sworn to before me this 27th day of January 1898.

H. W. GENIN,
Notary Public in and for the State of Washington,
residing at Nelson.

NOTICE OF APPLICATION FOR UNITED STATES PATENT.

Mineral application No. 25. Survey No. 363.

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width, being a consolidated mining claim, and all being situate in Eureka Mining District, Stevens County, State of Washington, and described by the official plat herewith posted and by the field notes on file in the office of the Register of Spokane Falls Land District, Washington, and which field notes of survey describe the boundaries and extent of said claims on the surface with magnetic variations at 21 degrees 45 minutes to 24 degrees 45 minutes east, as follows, to wit.

SURPRISE LODGE.

Beginning at the northeast corner No. 1, whence the southwest corner section 36, township 37 north, range 32 east, Willamette Meridian bears south 58 degrees 27 minutes 06 seconds east 6463.65 feet and running thence south 60 degrees 19 minutes west 367 feet to northwest corner post No. 2, thence south 12 degrees 11 minutes, 39 seconds east, 1520.68 feet to southwest corner post No. 3, thence north 60 degrees 19 minutes east 521 feet to southeast corner post No. 4, thence north 17 degrees 53 minutes west 1481.7 feet to corner No. 1 and place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County, at Colville, in the State of Washington in Book M of Quartz Claims, at page 223, the presumed general course or direction of the said Surprise vein, lode or mineral deposit being shown on the plat posted herewith as near as can be determined from present developments, this claim being for 1499.6 feet linear thereof, together with the surface ground shown upon the official plat posted herewith, the said vein, lode mining premises

hereby sought to be patented being bounded on the east by the Black Tail lode, on the North by the Pearl lode, and on the south by the Quilp lode.

PEARL LODGE.

Beginning at northeast corner post No. 1, whence the southwest corner section 36, township 37 north, range 32 east, Willamette Meridian bears south 52 degrees 45 minutes 36 seconds east 7784.82 feet and running thence south 60 degrees 19 minutes west 504.6 feet to corner No. 2, the northwest corner post, thence south 33 degrees 26 minutes 27 seconds east 1499.18 feet to corner No. 3, the southwest corner post, thence north 60 degrees 19 minutes east 347 feet to corner No. 4, the southeast corner post, thence north 27 degrees 24 minutes 39 seconds west 1497.14 feet to corner No. 1, the place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County, at Colville, in the State of Washington, in Book Q of Quartz Claims at page 530, the presumed general course or direction of said Pearl vein, lode or mineral deposits being shown upon the plat posted herewith as near as can be determined from present developments; this claim being for 1499.18 feet linear thereof, together with the surface ground shown upon the official plat posted herewith, the said vein, lode and mining premises hereby sought to be patented being bounded on the east by the Lone Pine Lode, on the south by the Surprise Lode and on the north by the Little Cove lode.

LONE PINE LODGE.

Beginning at the southwest corner No. 1, whence at the southwest corner Section 36, township 37 north, range 32 east, Willamette Meridian bears south 58 degrees 27 minutes 06 seconds east 6463.65 feet, and running thence north 81 degrees 23 minutes east 585.9 feet to corner No. 2, the southeast corner, thence north 25 degrees 55 minutes west 1455.7 feet to corner No. 3, the northeast corner, thence south 81 degrees 23 minutes west 626 feet to corner No. 4, the northwest corner, thence south 27 degrees 21 minutes 39 seconds east 1468.12 feet to corner No. 1, the place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County, at Colville, in the State of Washington, in Book M of Quartz Claims, at page 230. The presumed general course or direction of the said Lone Pine vein, lode or mineral deposit being shown upon the plat posted herewith, as near as can be determined from present developments; this claim being for 1468.12 feet linear thereof, together with the surface ground shown upon the official plat posted herewith, said vein, lode and mining premises hereby sought to be patented being bounded on the east by the Last Chance lode, on the south by the Black Tail lode, and on the west by the Pearl lode.

LAST CHANCE LODGE.

Beginning at the southeast corner No. 1, whence the southwest corner Section 36, Township 37, North range 32 east, Willamette Meridian bears south 58 degrees 53 minutes 44 seconds east 5496.63 feet and

running thence north 4 degrees 35 minutes 19 seconds east 1379.23 feet to northeast corner post No. 2, thence north 62 degrees 19 minutes west 665 feet to northwest corner post No. 3, thence south 11 degrees 13 minutes east 1630.2 feet to southwest corner post No. 4, thence south 62 degrees 19 minutes east 182.31 feet to corner No. 1, the place of beginning, the said mining claim being of record in the office of the Auditor of Stevens County at Colville, in the State of Washington, in Book M of Quartz Claims, at page 229, the presumed general course or direction of said Last Chance vein, lode or mineral deposit being shown upon the plat posted herewith as near as can be determined from present developments, this claim being for 1467.7 feet linear thereof, together with the surface ground shown on the official plat posted herewith, the said vein, lode, and mining premises hereby sought to be patented being bounded by the Micawber lode on the east, the Black Tail lode on the south and west and the Lone Pine lode on the west.

AREA.

Total area of Surprise lode.....	14.783	acres.
Total area of Pearl lode.....	14.623	acres.
Total area of Lone Pine lode.....	19.333	acres.
Total area of Last Chance lode..	12.339	
Conflict with Lone Pine.....	0.092	
Net area Last Chance.....	12.247	
	12.247	acres.
Total area lodes.....	60.986	acres.

Any and all persons claiming adversely the surface ground, veins, lodes, premises or any portion thereof so described, surveyed, platted and applied for are hereby notified that unless their adverse claims are duly filed as according to law and the regulations thereunder with the Register and Receiver of the United States Land Office at Spokane Falls, Washington, during the sixty days period of publication hereof, they will be barred by virtue of the provisions of the statute.

MATTHEW E. LOGAN,
Register.

Date of first publication, November 4, 1897.

Date of last publication, January 6, 1898.

State of Washington,
County of Stevens,—ss.

Rube Hull on oath declares that he is one of the publishers of *The RESERVATION RECORD*, a newspaper published each and every Thursday in the Town of Nelson, County of Stevens, State of Washington, and that the notice of application for U. S. Patent a printed copy of which is hereto annexed, dated October 23, 1897, relating to application for patent for the Surprise, Pearl, Lone Pine and Last Chance lodes was published in the aforesaid newspaper, in its regular edition (and not in a supplement thereof) once a week for—10—consecutive weeks, beginning in the issue date November 4, 1897 and ending in that dated January 6, 1898, and that the aforesaid newspaper was generally circulated and delivered and

mailed to its subscribers throughout the county and state aforesaid during that period.

RUBE HULL,
Publisher.

Subscribed and sworn to before me this 27th day of January 1898.

H. W. GENIN,
Notary Public for the State of Washington, Residing
at Nelson.

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Survey #363 “Surprise,” “Pearl” “Lone Pine”
& Last Chance Lode Mining Claims. Proof of Pub-
lication. U. S. Land Office, Spokane, Washington.
Filed Feb. 7, 98. Matthew E. Logan, Register.

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PROOF OF CITIZENSHIP.

State of California,
City and County of San Francisco,—ss.

JAMES CLARK, being first duly sworn, according to law, deposes and says,— That he is the applicant for patent for the “Surprise” lode mining claim, the “Pearl” lode mining claim, the “Lone Pine” lode mining claim and the “Last Chance” lode mining all, being a consolidated mining claim, and all situate in Eureka Mining District, County of Stevens, State of Washington; that he is a naturalized citizen of the United States; took out his final naturalization papers in the Superior Court in and for the County of Spokane, State of Washington, at Spokane, in

said last named County and State, on the tenth day of October A. D. 1894, and is now a resident of the City and County of Spokane, State of Washington; that he is absent from said State of Washington and temporarily stopping in the State of California for the benefit of his health, where he expects to remain for some time.

JAMES CLARK.

Subscribed and sworn to before me this 6th day of December A. D. 1897.

[Seal]

MARK LANE,
Notary Public in and for the State of California,
Residing at San Francisco.

My commission expires on the 15th day of January A. D. 1899.

—95

Proof of Citizenship of James Clark. "Lone Pine" Group. U. S. Land Office, Spokane, Washington. Filed Dec. 29, 97. Matthew E. Logan, Register.

MINERAL SURVEY NO. 363 Amended.

Lot No. —

Spokane Land District.

FIELD NOTES

Amended

of the Δ survey of the mining claim of
James Clark

Spokane, Washington,

known as the

Lone Pine, Pearl, Last Chance & Surprise Lodes,
Eureka Mining District, Stevens County, Washing-
ton, Section Unsurveyed, Township 37 N., Range 32
E., W. M.

Surveyed under instructions dated Aug. 25, 1898.

By J. C. RALSTON,

U. S. Deputy Mineral Surveyor.

Claim located. Lone Pine, Feb. 28, 1896; Last
Chance, Feb. 29, 1896; Surprise, Mar. 8, 1896; Pearl,
July 18, 1896.

Amended—do.

Survey commenced Sept. 18, 1898.

Survey completed Sept. 20, 1898.

Address communications to claimants' attorneys
Messrs. Forster & Wakefield, Hypotheek Bank Bldg.,
Spokane, Washington.

Trench.

Burch 296 to 300.

Lake 368—369,

Wiley 485.

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Survey No. 363—Amended.

Lone Pine—Pearl—Surprise—Last Chance Lodes.

LONE PINE LODGE.

Beginning at cor. No. 1, planted on narrow bench 60 ft. above Eureka Creek.

Identical with location cor. a fir post 5x5-5 ft. long set 2 ft. in ground to bed rock, with mound of earth and stones scribed 1-4-1-363.

A fir tree 12" diam. bears S. 60° W. 45.3 ft. blazed and scribed B. T. 1-4-1-363.

A granite rock showing 6 ft. square x3 ft. high chiseled (X) B. R. 1-4-1-363, bears S. 4.51 W. 82 ft.

A pine tree on adjacent butte bears S. 80-37 W.

No peaks visible.

S. W. cor. Sec. 36, T. 37 N., R. 32 E., W. M., bears S. 58-27-06 E. 6463.65 ft.

Thence N. 81° 23' E. Var. 23° 00' E.

289.5 Intersect line 3-4 Black Tail Lode, Sur. 365 at S. 86-47 E. 417.27 from cor. No. 3.

316.9 Intersect lode line. Discovery on lode line 702.08 ft. from this point.

539.79 Intersect line 3-4 Last Chance Lode, this sur. at N. 11-13 W. 549.07 ft. from cor. No. 4.

585.9 To cor. No. 2—

Planted on hillside sloping west. Surface between cors. 1 and 2 rises sharply easterly.

A pine post 5x5-4½ ft. long set 18" in ground to bed rock, with mound of earth and stones scribed 2-363.

A pine tree 14" diam. bears S. 63-42 W. 13.45 ft.

A fir tree 10" diam. bears N. 72-43 E. 17.7 ft., both blazed and scribed B. T. 2-363.

A peak bears N. 33-12 W.

" " " S. 36-00 W.

Location cor. bears S. 24-10 E. 20.6 ft.

Thence N. 25-55 W. Var. 21°-45' E.
Descend into gully.

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Lone Pine (Continued).

181.51 Intersect line 3-4 Last Chance Lode this sur. at S. 11-13 E. 907.64 ft. from cor. No. 3.

570. Intersect gully running S. W. Thence ascend.

1455.7 To cor. No. 3:—

A pine post 4x4x6 ft. long set 2 ft. in the ground with mound of earth scribed 3-363.

A fir tree 40" in diam. bears S. 75-13 W. 107.8 ft.

A fir tree 12" in diam. bears S. 49-31 E. 63 ft., both blazed and scribed B. T. 3-363.

A butte bears N. 4-12 E.

Location cor. bears N. 12-22 W. 216 ft.

Thence S. 81° 23' W. Var. 22°-00' E.

Ascend.

309.1 Intersect lode line and ridge running S. E.
Lode line bears S. 27° 24' 39" E. 1468.12 ft.

322.3 Intersect line 4-1 Mammoth Lode, Sur.
420, at N. 46-52 E. 192.0 ft. from cor. No. 1.

543. Intersect line 1-2 Mammoth Lode, Sur.
420 at N. 38-30 W., 125.47 ft. from cor. No.
1 and coincident with line 3-4 Little Cove,
Sur. 420 at N. 38-30 W. 42.52 ft. from cor.
No. 4.

626. To cor. No. 4.—

Planted on steep side hill sloping west
into Eureka Creek.

A pine post 5x5-4½ ft. long set to bed rock
with mound of earth and stones scribed 4-
363.

Face of Rock, cross on which bears N. 70-
42 E. 6.6 ft.

Face of Rock, cross on which bears S. 9-
43 E. 17.9 ft., both chiseled (X) B. R. 4-363.

A peak bears N. 32-30 W.

“ “ “ S. 12-28 E.

Cor. No. 1 Pearl Lode, this sur. bears N.
27-24-39 W. 29.02 ft.

Location cor. bears N. 80-00 W. 42.2 ft.

Thence S. 27-24-39 E. Var. 22°-10' E.

Lone Pine (Continued).

Along hillside sloping westerly into Eureka Creek.

- 42.08 Intersect line 4-1 Little Cove Sur. 420 at S. 79-30 W. 90.67 ft. from cor. No. 4.
- 1330.0 Intersect gully running S. W.
- 1350.0 “ trail “ N. E. to Lone Pine Tunnel.
- 1399.12 Intersect line 3-4 Black Tail Lode, Sur. 365 at S. 86-47 E. 98.77 ft. from cor. No. 3. Ascend sharply.
- 1468.12 To cor. No. 1, place of beginning.

Pearl Lode.

Beginning at cor. No. 1, planted on steep hillside sloping westerly.

A pine post 4x4—5 ft. long set on bed rock with mound of earth and stones scribed 1-363.

A cross (X) on rock face bears S. 0-24 W. 5.2 ft.

A cross (X) on rock face bears N. 14-58 E. 17. ft., both chiseled B. R. 1-363.

A peak bears S. 12-08 E.

“ “ “ N. 32-09 W.

Location cor. bears N. 27-24-39 W. 14.6 ft. S. W. cor. Sec. 36-T. 37 N., R. 32 E. W. M. bears S. 52-45-36 E. 7784.82 ft.

Thence S. 60-19 W. Var. 22°-10' E.

Down steep hillside sloping westerly.

- 202.8 Intersect lode line. Discovery is on lode line 1223.8 ft. from this point.
- 203.54 Intersect line 4-1 Little Cove, Sur. 420 at S. 79-30 W. 303.2 ft. from cor. No. 4.
330. Intersect trail running S. E.
- 390.9 " line 2-3 Kangaroo Lode Sur. 444, at N. 35-28-24 W. 1291 ft. from cor. No. 2.
420. Intersect Eureka Creek 3'x6" running S. E.
- 492.6 To cor. No. 2.—
Planted at foot of hill rising to west.
A pine post 5x5-6 ft. long set *set* 21½ ft. in ground with mound of earth scribed 2-363.

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Pearl Lode (Continued).

- A fir tree 30" diam. bears N. 4-18 W. 46.8 ft.
- A fir tree 30" diam. bears S. 38-22 E. 23.5 ft., both blazed and scribed B. T. 2-363.
- A point of rocks bears N. 15-28 E.
- No peaks visible.
- Location cor. bears S. 61-55 W. 90 ft.
- Thence S. 33-02-51 E. Var. 22°-00' E.
- Along foot of hill rising to the west.
- 1282.58 Intersect line 1-2 Kangaroo Lode, Sur. 444 at S. 61-37 W. 156.96 ft. from cor. No. 2.
- 1498.54 To cor. No. 3.—
Planted on hillside 40 ft. above Eureka Creek.
- A pine post 5x5-5 ft. long set 2 ft. in ground with mound of earth scribed 3-363.

A tamarack tree 30" diam. bears S. 30-10 W. 21.1' ft.

A fir tree 10" diam. bears N. 12-24 W. 36.6°, both blazed and scribed B. T. 3-363.

No peaks visible.

Location cor. bears S. 60-19 W. 36.5 ft.

Cor. No. 2 Surprise; this sur. bears S. 60-19 W. 21.7 ft.

Thence N. 60-19 E. Var. 22°-00' E.

Descend.

140. Intersect Eureka Creek, running S. at foot of hill.
200. Intersect trail, running S.
- 242.5 Intersect line 2-3 Black Tail Lode, Sur. 365 at S. 19-13-56 E. 124.57 from cor. No. 3.
300. Intersect lode line, which bears N. 33-26-13 W. 1499.18.
- 345.3 To cor. No. 4.—
Identical with cor. 1 Lone Pine, this sur. previously described.
Identical with location cor.
Thence N. 27-24-39 W. Var. 23°-00' E.
Coincident with line 4-1 Lone Pine Lode.
69. Intersect line 3-4 Black Tail, sur. 365, at S. 86-47 E. 98.77 ft. from cor. No. 3.
- 1426.04 Intersect line 4-1 Little Cove, sur. 420 at S. 79-30 W. 90.67 ft. from cor. No. 4.

Pearl Lode (Continued).

- 1468.12 Intersect cor. No. 4 Lone Pine Lode this sur.

1497.14 To cor. No. 1.—place of beginning.

SURPRISE LODE.

Beginning at cor. No. 1.

Identical with cor. No. 4 Pearl and cor. No. 1 Lone Pine Lode, previously described.

The S. W. cor. Sec. 36 T. 37 N., R. 32 E. W. M. bears S. 58-27-06 E. 6463.65 ft.

Thence S. 60-19 W. Var. 23-00 E.

Coincident with line 3-4 Pearl Lode.

102.8 Intersect line 2-3 Black Tail Lode, sur. 365, at N. 19-13-56 W. 778.59 ft. from cor. No. 2.

130. Intersect lode line. Discovery is on lode line 723.4 ft. from this point.

345.3 Intersect cor. No. 3 Pearl Lode, this sur.

367. To cor. No. 2.

A pine post 5x5-5 ft. long set 2 ft. in ground with mound of earth scribed 2-363.

A tamarack tree 30" diam. bears S. 29-35 E. 9.1 ft.

A tamarack stump 24" diam. bears N. 37-33 W. 29.4 ft., both blazed and scribed B. T. and B. S. resp'y., 2-363.

No peaks visible.

Location cor. bears S. 60-19 W. 36.0 ft.

Thence S. 12-11-39 E. Var. 21-45 E.

Along steep hillside sloping easterly into creek.

1520.68 To cor. No. 3.—

Planted on steep hillside sloping east.

A pine post 4x4-6 ft. long set 2½ ft. in ground with mound of earth scribed 3-363.

A pine tree 20" diam. bears S. 51°-30' E.
7.8 ft.

A fir tree 14" diam. bears N. 40-06 W.
27.7 ft., both blazed and scribed B-T-3-363.

A peak bears S. 28-57 E.

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Surprise Lode (Continued).

Location cor. bears S. 12-11-39 E. 308 ft.

Thence N. 60-19 E. Var. 22-00 E.

270. Intersect Eureka Creek and foot of hill.

300. " trail running south.

313. " Lode line and foot of hill rising
easterly. Lode line bears N. 14-58 W. 1499.6.

363.95 Intersect line 2-3 Quilp Lode, sur. 375 at
S. 27-02 E. 497.8 ft. from cor. No. 3.

521. To cor. No. 4.

Planted on hillside sloping westerly and
about 80 ft. above Eureka Creek.

A pine post 4x4-5 ft. long set 2 ft. in
the ground with mound of earth scribed
4-363.

A fir tree 20" diam. bears N. 75-35 W. 18.6
ft.

A pine tree 30" diam. bears S. 13-43 E.
29.35 ft., both blazed and scribed B. T. 4-363.

No peaks visible.

Location cor. bears S. 17-53 E. 330 ft.

Thence N. 17-53 W. Var. 24-00 E.

Along hillside sloping westerly into
Eureka Creek.

476. Intersect line 3-4 Quilp Lode, sur. 375, at N. 68-02 E. 233.2 ft. from cor. No. 3.
- 650.54 Intersect line 1-2 Black Tail Lode, sur. 365 at S. 86-47 E. 88.21 ft. from cor. No. 2.
- 1481.7 To cor. No. 1—the place of beginning.

LAST CHANCE LODE.

Beginning at cor. No. 1—

Planted on hillside sloping south.

Identical with location cor.

A pine post 4x4-5 ft. long set 2 ft. in the ground with mound of earth, scribed 1-363.

A rock showing 2 ft. sq. x 2 ft. above ground, cross (X) on which bears N. 79-51 E. 73.9 ft. chiseled B. R. 1-363.

A peak bears S. 57-41 E.

“ “ “ S. 37-19 W.

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Last Chance Lode (Continued).

The S. W. cor. Sec. 36-T. 37 N., R. 32 E. W. M. bears S. 58-53-44 E. 5496.63 ft.

Thence-N. 4-35-19 E. Var. 23-10 E.

- 2.1 Intersect line 1-2 Micawber Lode, sur. 374 at S. 77-58 E., 02 ft. from cor. No. 2. Along level bench.

- 1379.23 To cor. No. 2.—

A cottonwood post 4x4-5 ft. long set 2 ft. in ground with mound of earth scribed 2-363.

A pine tree 20" diam. bears N. 43-00 E. 9.7 ft.

A pine tree 48" diam. bears N. 79-08 W.
35.5 ft., both blazed and scribed B. T. 2-363.

A peak bears N. 34-51 W.

A tree on butte bears S. 80-29 W.

Location cor. bears N. 13-41 E. 714 ft.

Thence N. 62-19 W. Var. 23-00 E.

Descend.

150.31 Intersect line 2-3 Micawber Lode, sur. 374
at N. 0-54 W. 1442.71 ft. from cor. No. 2.

307. Intersect lode line.

575. " gully running southerly.

Ascend gently.

665. To cor. No. 3.

A pine post 4"x4"-6' long set 2 ft. in
ground with mound of earth scribed 3-363.

A pine tree 14" diam. bears N. 61-41 E.
46.4 ft.

A pine tree 24" diam. bears S. 44-28 W.
39.8 ft., both blazed and scribed B. T. 3-363.

A peak bears N. 34-21 W.

Location cor. bears S. 66-49 W. 91' ft.

Thence S. 11-13 E. Var. 22-45 E.

Slightly down hill.

190. Intersect gully running south.

Ascend rapidly.

907.64 Intersect line 3-2 Lone Pine lode this sur.

1081.13 " " 2-1 " " " " "

and top of hill, thence over rolling ground.

1630.2 To cor. No. 4.—

Last Chance Lode (Continued).

Planted on brow of hill sloping S. and W.
Identical with location cor.

A pine post 5x5-5 ft. long, set 1 ft. in ground to bed rock with mound of earth and stones, scribed 4-363.

A pine tree 2 ft. diam. bears S. 71-13 W. 80.51 ft.

A pine tree 14 ft. diam. bears N. 85-30 E. 60.05 ft., both blazed and scribed B. T. 4-363.

A peak bears S. 36-43 W.

“ “ “ S. 57-41 E.

Thence S. 62-19 E. Var. 24-45 E.

Diagonally down hill.

72.31 Intersect lode line which bears N. 2-30 W. 1467.7 ft.

Discovery on lode line 121. ft. from this point.

182.31 To cor. No. 1—place of beginning.

AREAS.

Lone Pine	19.333
“ “ conflict with Black Tail not claimed	0.217
<hr/>	
Net area Lone Pine.....	19.116
Pearl	14.388
Surprise	14.783
Last Chance	12.339
“ “ conflict with Lone Pine not claimed.....	0.092
Last Chance conflict with Mi- cawber not claimed.....	2.189
<hr/>	
Total excluded	2.281
<hr/>	
Last Chance, net area	10.058
<hr/>	
Net area this survey	58.345

LOCATION.

This claim is located in T. 37 N., R. 32 E., W. M., in unsurveyed lands and lies about 2 miles N. W. of confluence of San Poil River and Granite Creek. Eureka Creek which flows southerly through this

claim, joins Granite Creek about $\frac{3}{4}$ mile south of this claim.

Expenditure of \$500.

I certify that the value of the labor and improvements on this claim, placed thereon by the claimants is not less than \$500 and consist of:—

Imp.	On Lone Pine.—	
No. 1	Discovery cut bears from cor. No. 1, N. 0–51 W. 670.8 ft.—Value....	\$10.00
“ 2	Tunnel $4\frac{1}{2}' \times 6\frac{1}{2}'$ running N. 25–00 W. 118 ft. to breast the portal of which bears from cor. No. 1 N. 28–24 E. 420 ft.	\$2360.00
“ 3	Blacksmith shop $10' \times 12'$ bears from cor. No. 1, N. 25–30 E., 425 ft..	\$50.00

Pearl Lode.

“ 1	Discovery cut bears from cor. No. 1, S. 24–00 E., 1227.2 and running N. 62–00 E., $5' \times 10'$ deep in earth & rock.	\$100.00
“ 2	A boarding and bunk house $16' \times 50'$ The S. W. of which bears from cor. 1–4–1 N. 55–52 W. 150 ft.....	\$150.00

Surprise Lode.

“ 1	Discovery cut bears from cor. No. 1, S. 5–31 E. 766.9.....	\$25.00
-----	--	---------

Last Chance Lode.

“ 1	Discovery cut bears from cor. No. 1 N. 30–50 W. 200.2 ft.	\$12.00
-----	--	---------

Total.....\$2707.00

Other Improvements.

A cabin 12'x14', the S. W. cor. of which bears from cor. 1-4-1 N. 72-25 W. 225 ft. owned by claimant herein.

The surface embraced by this claim rises rapidly from the gulch through which Eureka Creek flows and terminates in a ridge which cuts the center of the Lone Pine. From this ridge the surface declines

—106

B-75'

easterly into a gully which skirts the east side-line of the Lone Pine and joins Eureka Creek about 150 ft. west of cor. 1-4-1 Eureka Creek gulch averages about 200 ft. wide, thickly timbered with fir and pine for its entire length through these lodes. Eureka Creek flows southerly through the Pearl and Surprise and is about 3 ft. wide, 6 ins. deep. The west half of Last Chance Lode lies on ground sloping westerly at a moderately sharp angle and lies upon a bench about 300 ft. above Eureka Creek. The veins of this claim dip about 65° easterly.

The open cut of the Pearl continued on its present course into a tunnel will cut the veins of the Lone Pine and Last Chance at a good depth, and at the intersection of this tunnel with the vertical plane of the Lone Pine tunnel an Up-cast can be economically put in. By drifting north on the Pearl vein and south on the Surprise from the Pearl tunnel, landing all ores at mouth of this tunnel where ample surface space and water is found for dumping and milling purposes, give one system of workings and

one plant of machinery on the most economical lines of development.

The fact is emphasized that all the veins of this claim dip east, or away from the creek, so that the present system of workings is one on which the expenditures in above estimates operate to the common benefit of all the lodes in this claim.

INSTRUMENT.

This survey was made with a Gurley Light Mountain Transit with Solar Attachment. The courses were deflected from a meridian established by solar observations. The distances were measured with 50 and 400 ft. steel tapes.

This Amended Sur. is identical with the original sur.

DIRECTIONS:—1. Carry out the area in acres to three decimals.
2. In balancing Lat. and Dep. do not obliterate or change the original figures except as follows:
Put the corrected figure or figures above in red ink. Do not change the footing of the original figures, but put below them the corrected footing in red ink.

Tabling and Calculations of Lone Pine Group, Survey No. 363.

(For Surveyor General's Office.)

No.	Course.	Distance.	Log. Sin.	Log. Cos.	Log. Dist.	Latitudes.		Departures.		Double M. D.	N. Areas.	S. Areas.
						North.	South.	East.	West.			
Conflict between Lone Pine and Black Tail, Sur. 365.												
1—2	N. 81—23 E.	289 50				4338		28623		28623	12416.66	
2—3	N. 86—47 W.	318 50				4337			31800	25446	4547.20	
3—1	S. 27—24—39 E.	69 00				1787				3177	1945.91	
						<u>6125</u>				2)18909.77		
						6124	6125	31800	31800	<u>9454.89</u>	<u>0.217</u>	Acres.
										43560		
Traverse from S. W. Cor. Sec. 36, T. 37 N., R. 32 E. W. M., to Cor. No. 1 Last Chance Lode.												
	N. 61—35—18 W.	5377 26				255852			472958	Course==4706.39==S.	58—53—44	E.
	N. 4—43 E.	282 00				28105		2319		<u>2839.57</u>		
						<u>283957</u>		2319	472958	Dist.==2839.57==5496.63 ft.		
								2319		Cos. 58° 53' 44"		
								<u>470639</u>				
Traverse from S. W. Cor. Sec. 36, T. 37 N., R. 32 E. W. M. to Cor. No. 1 Lone Pine and Cor. No. 1 Surprise Lodes.												
	Summary of above,					283957			470639	Course==5508.34==S.	58—27—06	E.
	N. 62—19 W.	182 31				8470		16144		<u>3381.98</u>		
	N. 54—27 W.	787 24				45771		64051		Dist.==3381.98==6463.65 ft.		
						<u>338198</u>		550834		Cos. 58° 27' 06"		
Traverse from S. W. Cor. Sec. 36, T. 37 N., R. 32 E. W. M. to Cor. No. 1 Pearl Lode.												
	Summary of above,					338198			550834	Course==6197.57==S.	52—45—36	E.
	N. 27—24—39 W.	1497 14				132905		68923		<u>4711.03</u>		
						<u>471103</u>		619757		Dist.==4711.03==7784.82 ft.		
										Cos. 52° 45' 36"		

FINAL OATHS FOR SURVEYS.

LIST OF NAMES.

A list of the names of the individuals employed by J. C. Ralston, United States Deputy Mineral Surveyor, to assist in running, measuring, and marking the lines corners and boundaries described in the foregoing field notes of the survey of the mining claim of James Clark known as the Lone Pine Group and showing the respective capacities in which they acted.

O. B. SMITH, Jr., Chainman.

EUGENE GOMOND, Chainman.

_____, Axman.

_____, Flagman.

FINAL OATHS OF ASSISTANTS.

We, O. B. Smith and Eugene Gomond, do solemnly swear that we assisted J. C. Ralston, United States Deputy Mineral Surveyor, in marking the corners and surveying the boundaries of the mining claim of James Clark, known as the Lone Pine, Pearl, Surprise, and Last Chance Lodes, Amended survey, represented in the foregoing field notes as having been surveyed by said deputy mineral surveyor and under his direction; and that said survey has been in all respects, to the best of our knowledge and belief, faithfully and correctly executed, and the corner and boundary monuments established ac-

according to law and the instructions furnished by the United States Surveyor-General for Washington.

O. B. SMITH, Jr., Chainman.

EUGENE GOMOND, Chainman,

_____, Axman.

_____, Flagman.

Subscribed and sworn to by the above-named persons before me this 20th day of September, 1898.

[Seal]

R. B. CURRY,

Notary Public in and for the State of Washington,
residing at Republic, Wash.

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B-86

(4—686.)

FINAL OATH OF U. S. DEPUTY MINERAL SURVEYOR.

I, J. C. Ralston, U. S. Deputy Mineral Surveyor, do solemnly swear that, in pursuance of instructions received from the United States Surveyor General for Washington, dated August 25th, 1898, I have, in strict conformity to the laws of the United States, the official regulations and instructions thereunder, and the instructions of said Surveyor General, faithfully and correctly executed the survey of the Mining Claim of James Clark, known as the Lone Pine, Pearl, Last Chance and Surprise Lodes, situate in Eureka Mining District, Stevens County, Washington, in Section Unsurveyed, Township No. 37 N., Range No. 32 E. W. M., and designated as Survey No. 363 (Amended), as represented in the foregoing

field notes, which accurately show the boundaries of said mining claim as distinctly marked by monuments on the ground, and described in the attached copy of the location certificate, which was received by me from the Surveyor General with said instructions, and that all the corners of said survey have been established and perpetuated in strict accordance with the law, official regulations and instructions thereunder; and I do further solemnly swear that the foregoing are the true and original field notes of said survey and my report therein, and that the labor expended and improvements made upon said mining claim by claimant or his grantors are as therein fully stated, and that the character, extent, location and itemized value thereof are specified therein with particularity and full detail, and that no portion of said labor or improvements so credited to this claim has been included in the estimate of expenditures upon any other claim.

J. C. RALSTON,

U. S. Deputy Mineral Surveyor.

Subscribed and sworn to by the said J. C. Ralston, U. S. Deputy Mineral Surveyor, before me a Notary Public this 24th day of September, 1898.

[Seal]

E. C. MACDONALD,

Notary Public in and for the State of Washington.

Residing at Spokane.

—113

B-81

LOCATION NOTICE.

“Lone Pine.”

Notice is hereby given that the undersigned, having complied with the requirements of Chapter six

of Title thirty-two of the Revised Statutes of the United States and the local customs, laws and regulations, has located 1500 fifteen hundred linear feet on the Lone Pine Quartz lode, situated in Reservation Mining District, Stevens County, Washington and described as follows; is 1500 linear feet in length and 600 linear feet in width, 300 feet on each side of center line. Stakes are placed at each corner and each end of center line. Center line runs in a north westerly and south easterly direction. Claim is situated about one half mile north of the north west fork of San Pull Creek and about two and a half miles in a south westerly direction from O'Briens ranch.

This notice is placed at discovery post.

Locators:—PHILIP CREASON.

T. RYAN.

JAMES CLARK.

CHARLES ROBINS.

Witness:

G. M. WELTY.

J. WELTY.

Discovery February 28, 1896.

Located February 28, 1896.

Filed for record. Mch. 13, 1896 at 3:20 o'clock P. M. at the request of Philip Creason and recorded April 4, 1896.

J. S. McLEAN,
County Auditor.

State of Washington,
County of Stevens,—ss.

I, Jno. L. Metcalfe, Auditor in and for said County and State, do hereby certify that the within and foregoing is a full true and correct copy of the record of an instrument of writing now recorded in my office, on page 230 volume M of the record of Quartz.

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In Witness Whereof, I have hereunto set my hand and affixed my official seal this eight day of June, 1897.

[Seal]

JNO. L. METCALFE,
Auditor, Stevens County, Wash.

By J. E. Pickrell,
Deputy.

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NOTICE OF QUARTZ LOCATION.

Washington State, Eureka Mining District.

“Pearl.”

Notice is hereby given that the undersigned having complied with the requirements of Chapter six of Title thirty-two of the Revised Statutes of the United States and the laws of the above state and the local customs and regulations of said district has located and does hereby locate 1500 linear feet on the Pearl lode, situated in Stevens County in the above state and Mining District and further described as follows: Commencing at a post marked No. 1 at the South corner from thence 300 feet in

a north easterly direction to a center end post marked No. 2, thence 200 feet in a north easterly direction to a corner post marked No. 3, thence 1500 feet in a north westerly direction to a corner post marked No. 4. Thence 200 feet in a south westerly direction to a center end post marked No. 5, thence 300 feet in a south westerly direction to a corner post marked No. 6. Thence 1500 feet to the place of beginning. Intending to claim fifteen hundred feet in length and 500 five hundred feet in width, for the purpose of mining the same, claiming all surface rights, privileges and minerals and other rights, granted by existing laws and customs. This claim is further described as follows: Is situated on the north side of Eureka Creek about 2 miles west of San Poil Creek and lies on the south side of the "Lone Pine" mineral claim and the north side of the "Kangaroo" and joins Enterprise on south east end and the Little Cove on the north west end. Posts are placed at each corner and both ends of center line. This notice is placed at discovery. Lo-

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B-84'

cated this 18th day of July, A. D. 1896.

Locators: PHILIP CREASOR $\frac{1}{2}$.

CHARLES P. ROBINS $\frac{1}{4}$.

JAMES CLARK $\frac{1}{4}$.

Witnesses: J. G. GREEN.

Filed for record. Aug. 20th, 1896 at 3 o'clock P. M. at the request of J. G. Green and recorded Sept. 5, 1896.

J. S. McLEAN,
County Auditor.

State of Washington,
County of Stevens,—ss.

I, Jno. L. Metcalfe, Auditor in and for said County and State, do hereby certify that the within and foregoing is a full, true and correct copy of the record of an instrument of writing now recorded in my office on page 550, volume Q of the record of Quartz.

In witness whereof, I have hereunto set my hand and affixed my official seal this eight day of June, 1897.

[Seal]

JNO. L. METCALFE,
Auditor, Stevens County, Wash.

By J. E. Pickrell,
Deputy.

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B-85

LOCATION—NOTICE OF QUARTZ LOCATION.

“Surprize”

Washington State.

Reservation Mining District.

Notice is hereby given that the undersigned, having complied with the requirements of Chapter six of Title thirty-two of the revised statutes of the United States and the laws of the above state and the local customs and regulations of said district has located and does hereby locate 1500 linear feet in the Surprise lode situated in Stevens County in the above state and mining district and further described as follows: Is 1500 linear feet in length and 600 linear feet in width 300 linear feet on each side of center line discovery post about the center of claim. Stakes

are placed at each corner and each end of center line. This notice is placed at discovery and further described as follows; Is situated on the north side of the northwest fork of the San Poll Creek and lies along the south side of the Black Tail Mineral Claim. Located this 8th day of March A. D. 1896.

Locators:

T. RYAN.
CHARLES ROBINS.

Witness:

PHILIP CREASOR.

Filed for record March 13, 1896 at 3:20 o'clock P. M. at the request of Philip Creasor and recorded April 4, 1896.

J. L. McLEAN,
County Auditor.

State of Washington,
County of Stevens,—ss.

I, Jno. L. Metcalfe, Auditor in and for said County and State, do hereby certify that the within and foregoing is a full, true and correct copy of the record of an instrument of writing now recorded in my office, on page 228, volume M of the record of Quartz.

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In witness Whereof, I have hereunto set my hand and affixed my official seal this eighth day of June 1897.

[Seal]

JNO. L. METCALFE,
Auditor Stevens County, Wash.
By J. E. Pickrell,
Deputy.

LOCATION NOTICE.

Last Chance.

Notice is hereby given that the undersigned, having complied with the requirements of Chapter six of Title thirty-two of the revised statutes of the United States and the local customs laws and regulations has located 1500 fifteen hundred linear feet on the Last Chance Quartz lode, situated in Reservation Mining District, Stevens County, Washington and described as follows: Is 1500 linear feet in length and 600 linear feet in width. Stakes are placed at each corner and each end of center line, and lies along the north side of the Black Tail Mineral Claim and the Lone Pine Mineral Claim, is situated about one half mile north of the northwest fork of the San Poll Creek. This claim lies in a northwest and southeasterly direction 300 linear feet on each side of center line.

Discovered, February 29, 1896, Recorded—189.

Locator:

T. RYAN.

PHILIP CREASOR.

JAMES CLARK.

CHARLES ROBINS.

Attest:

JAMES WELTY,

Filed for record Mch. 13, 1896 at 3:20 o'clock P. M.
at the request of Philip Creasor and recorded April
14, 1896.

J. S. McLEAN,
County Auditor,

State of Washington,
County of Stevens,—ss.

I, Jno. L. Metcalfe, Auditor in and for said County and State, do hereby certify that the within and foregoing is a full, true and correct copy of the record of an instrument of writing now recorded in my office on page 229, volume M of the record of Quartz

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B-88

In witness whereof I have hereunto set my hand and affixed my official seal this eight day of June, 1897.

[Seal]

JNO. L. METCALFE,
Auditor Stevens County, Wash.
By J. E. Pickrell, Deputy.

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(4-687)

SURVEYOR GENERAL'S CERTIFICATE OF
APPROVAL OF FIELD NOTES AND SUR-
VEY OF MINING CLAIM.

DEPARTMENT OF THE INTERIOR,

Office of U. S. Surveyor General,
Olympia, State of Washington.

January 21, 1899.

I, U. S. Surveyor General for Washington do hereby certify that the foregoing and hereto attached Field Notes and Return of the Survey of the Mining

Claim of James Clark, known as the Lone Pine, Pearl, Last Chance and Surprise Lodes, situate in Eureka mining district, Stevens County, Washington, in Section Unsurveyed, Township No. 37 N; Range No. 32 E. W. M, designated as Survey No. 363 Amended executed by J. C. Ralston, U. S. Deputy Mineral Surveyor, September 18-20, 1898, under my instructions dated August 25, 1898, have been critically examined and the necessary corrections and explanations made, and the said Field Notes and Return, and the Survey they describe, are hereby approved. A true copy of the copy of the location certificate filed by the applicant for survey is included in the field notes.

W. McMICKEN,
U. S. Surveyor General for Washington.

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(4-688.)

U. S. SURVEYOR GENERAL'S FINAL CERTIFICATE ON FIELD NOTES.

DEPARTMENT OF THE INTERIOR,

Office of U. S. Surveyor General,
Olympia, State of Washington.

January 21, 1899.

I, U. S. Surveyor General for Washington do hereby certify that the foregoing transcript of the Field Notes, return and approval of the Survey of the mining claim of James Clark, known as the Lone Pine, Pearl, Last Chance and Surprise Lodes, situate in Eureka Mining District, Stevens County, Washington, in Section Unsurveyed, Township No. 37 N.

Range No. 32 E. W. M, and designated as Survey No. 363 Amended, has been correctly copied from the originals on file in this office; that said Field Notes furnish such an accurate description of said mining claim as will, if incorporated into a patent, serve fully to identify the premises, and that such reference is made therein to natural objects or permanent monuments as will perpetuate and fix the *Locus* thereof.

And I further certify that five hundred dollars' worth of labor has been expended or improvements made upon said mining claim by claimant or his grantors, and that said improvements consist of—Lone Pine, Imp. No. 1, Discovery cut value \$10. Imp. No. 2, Tunnel $4\frac{1}{2}' \times 6\frac{1}{2}' \times 118'$ value \$2360. Imp. No. 3, Blacksmith shop $10' \times 12'$ value \$50. Pearl, Imp. No. 1 Discovery cut $5' \times 10'$ value \$100. Imp. No. 2, Boarding and bunk house $16' \times 50'$ value \$150. Surprise Imp. No. 1, Discovery cut value \$25. Last Chance Imp. No. 1, Discovery cut value \$12. Total value of improvements \$2707.00 and that no portion of said labor or improvements has been included in the estimate of expenditures upon any other claim.

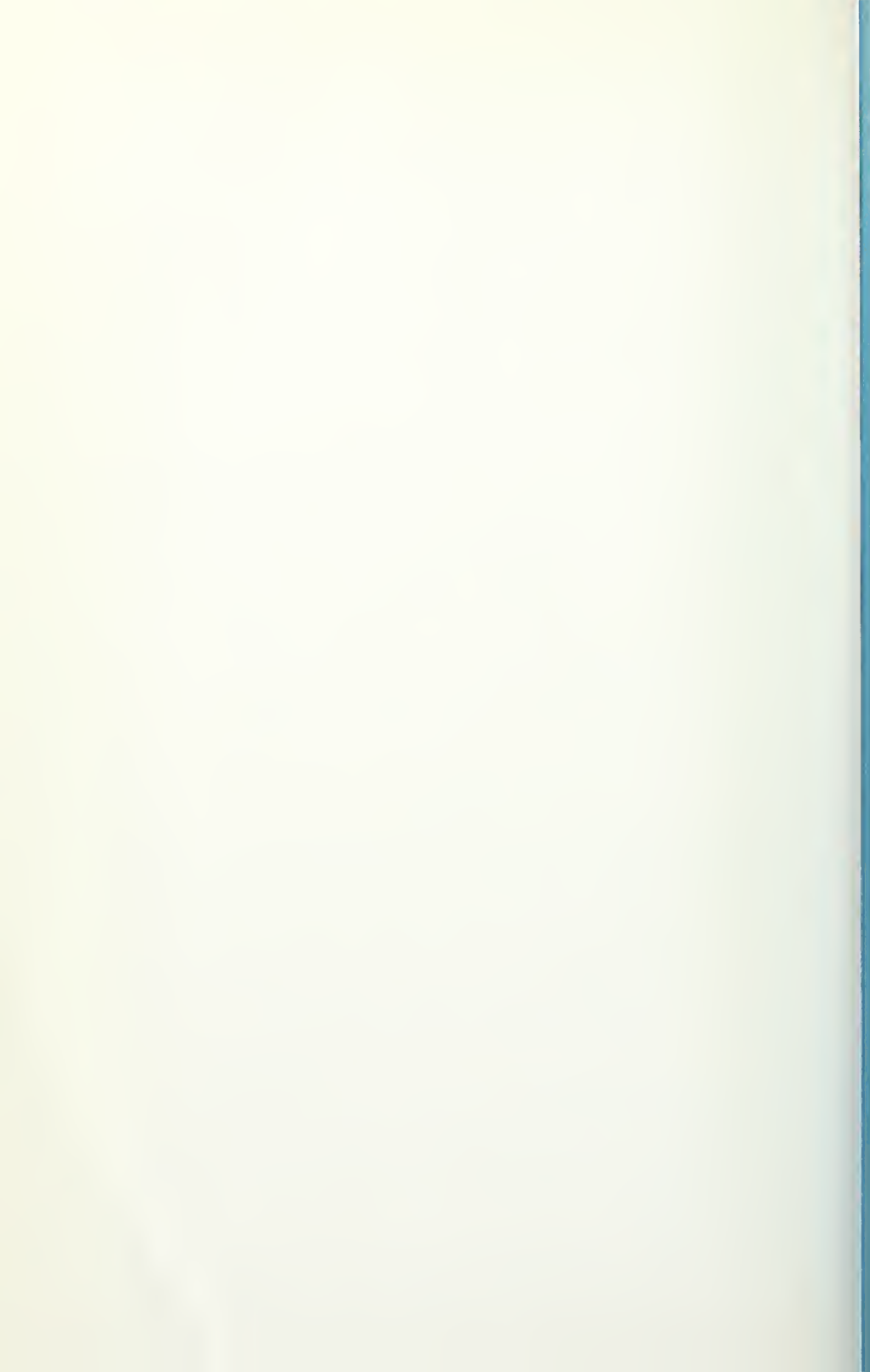
I further certify that the plat thereof, filed in the U. S. Land Office at Spokane is correct and in conformity with the foregoing Field Notes.

W. McMICKEN,

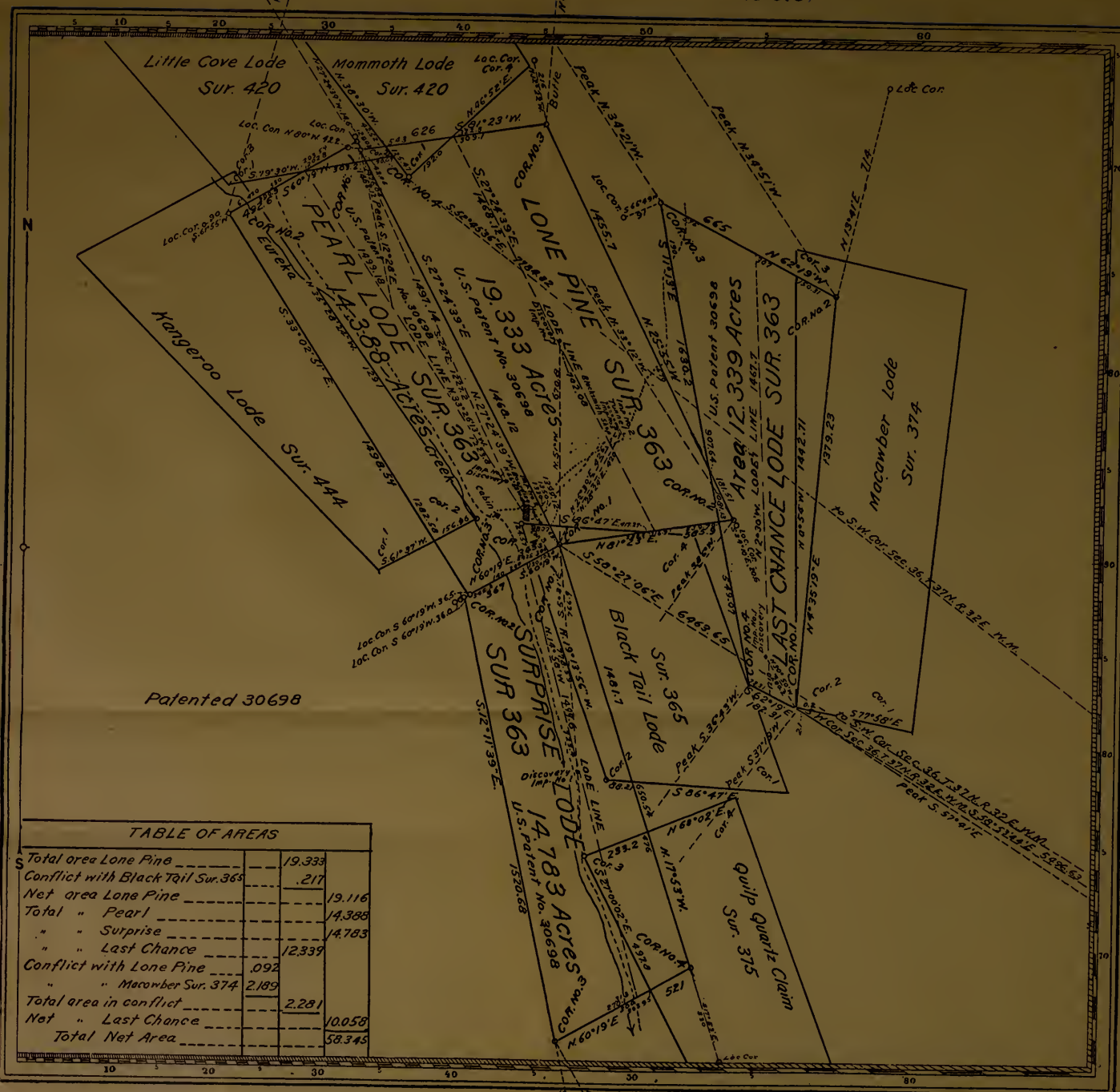
United States Surveyor General for Washington.

[Endorsed]: Filed in the U. S. District Court, Eastern District of Washington. Aug 27, 1920. W. H. Hare, Clerk.

No. 3691. United States Circuit Court of Appeals for the Ninth Circuit. Filed May 27, 1921, F, D, Monckton, Clerk,



(4-675)



Claim Located	Lone Pine Lode	February 28, 1896
	Last Chance "	" 29 "
	Surprise "	March 8 "
	Pearl "	July 18 "

Mineral Survey No 363 Amended

Spokane Lot No. Land District.

PLAT

OF THE CLAIM OF

James Clark
KNOWN AS THE

*Lone Pine, Pearl, Surprise
and Last Chance Lodes*

IN the ceded portion of the Colville Ind. Res.
IN Eureka MINING DISTRICT.

Stevens COUNTY, Washington
Containing an Area of 58.345 (net) Acres

Scale of 300 Feet to the inch.
Variation $21^{\circ}45' - 24^{\circ}45' E$.

SURVEYED September 18-20 1898 BY

J. C. Ralston

The Original Field Notes of the Survey of the Mining Claim of James Clerk, known as the Lone Pine, Pearl, Surprise and Last Chance Lodes

from which this plat has been made under my direction, have been examined and approved, and are on file in this office, and I hereby certify that they furnish such an accurate description of said Mining Claim as will, if incorporated into a patent, serve fully to identify the premises, and that such references is made therein to natural objects or permanent monuments as will perpetuate, and settle the locus thereof.

And I further certify that Five Hundred Dollars worth of labor has been expended or improvements made upon said Mining Claim by claimant or his grantors, and that said improvements consist of Lone Pine Imp No 1, Discovery Cut, value \$40, Imp. 2 Tunnel, \$463¹¹/₁₆, \$2360, Imp. 3, Blocksmith Shop 10x12 \$50, Pearl Imp. 1, Discovery Cut \$100, Imp. 2 Boarding House 16x50 \$150, Surprise, Imp. 1, Discovery Cut \$25, Last Chance, Imp. 1, Discovery Cut \$12 Total Value of Improvements \$2707 that the location of said improvements is correctly shown upon this plat, and that no portion of said labor or improvements has been included in the estimate of expenditures upon any other claim.

And I further certify that this is a correct plat of said Mining Claim made in conformity with said original field notes of the survey thereof, and the same is hereby approved.

U.S. Surveyor General's Office.
Olympia, Washington
January 21, 1899



Plaintiff's Exhibit No. 12.

I hereby certify that this is a true and correct copy of the Plat of Mineral Survey No. 363 Amended, now on file in this office.

U. S. Surveyor General's Office, Olympia, Washington, October 6, 1919.

[Seal]

E. A. FITZHENRY,
U. S. Surveyor General for Washington,
By GEO. F. NADEU,
Ch. Clk.

[Endorsed]: Filed in the U. S. District Court, Eastern District of Washington. Aug. 27, 1920.
W. H. Hare, Clerk.

No. 3691. United States Circuit Court of Appeals for the Ninth Circuit. Filed May 27, 1921. F. D. Monckton, Clerk.

Plaintiff's Exhibit No. 16.

THE C. M. FASSETT CO.

ASSAY OFFICE AND ORE TESTING WORKS.

207-209-211-213 Wall St.

Spokane, Washington, Aug. 23, 1920.

Memorandum of Assay Made for
Northport S. & R. Co.

Sample Mark.	Copper at . . ets. per lb. Per Cent.	Lead at . . ets. per lb. Per Cent.	Silver at 100 ets. per oz. Ounces.	Assay Value Per Ton of 2,000 Pounds Avoirdupois.				Total.
				Dollars.	Cts.	Ounces.	100ths.	Dollars.
2876			None				—07	1 44
2877			—3	—30			—08	1 95
2878			—2	—20			—06	1 44
2879			—3	—30			—41	8 77
2880			—2	—20			—04	1 03
2881			None				—02	—41
2882			—9	—90			—50	11 23

THE C. M. FASSETT CO.
K{ All samples saved for one year. Pulps can be had }
{ from these samples for cheek assays, at any time. }

No. 78257-63

Charges, \$———

THE C. M. FASSETT CO.

ASSAY OFFICE AND ORE TESTING WORKS.

207-209-211-213 Wall St.

Memorandum of Assay Made for

Northport S. & R. Co.

Spokane, Washington, Aug. 23, 1920.

Sample Mark.	Copper at . . cts. per lb.	Lead at . . cts. per lb.	Assay Value Per Ton of 2,000 Pounds Avoirdupois.			Total.
			Silver at 100 cts. per oz.	Gold at \$20.67 + per. oz.		
	Per Cent.	Dollars Cts.	Per Cent.	Dollars Cts.	Ounces. 10ths.	Dollars. Cts.
2883			2 4	2 40	— 52	10 74 13 14
2884			1 0	1 00	— 07	1 44 2 44
2885			— 2	— 20	— 05	1 03 1 23
2886			None		— 02	— 41 — 41
2887			— 2	— 20	— 02	— 41 — 61
2888			— 1	— 10	— 04	— 83 — 93
2889			2 3	2 30	— 12	2 48 4 78

No. 78264-70

Charges, \$—, —, —

{ All samples saved for one year. Pulps can be had }
 { from these samples for check assays, at any time. }

THE C. M. FASSETT CO.
 K

[Endorsed]: Filed in the U. S. District Court,
Eastern District of Washington. Aug. 27, 1920.
W. H. Hare, Clerk.

No. 3691. United States Circuit Court of Appeals
for the Ninth Circuit. Filed May 27, 1921. F. D.
Monckton, Clerk.

ADDRESS ALL COMMUNICATIONS TO THE COMPANY

Northport Smelting & Refining Company.

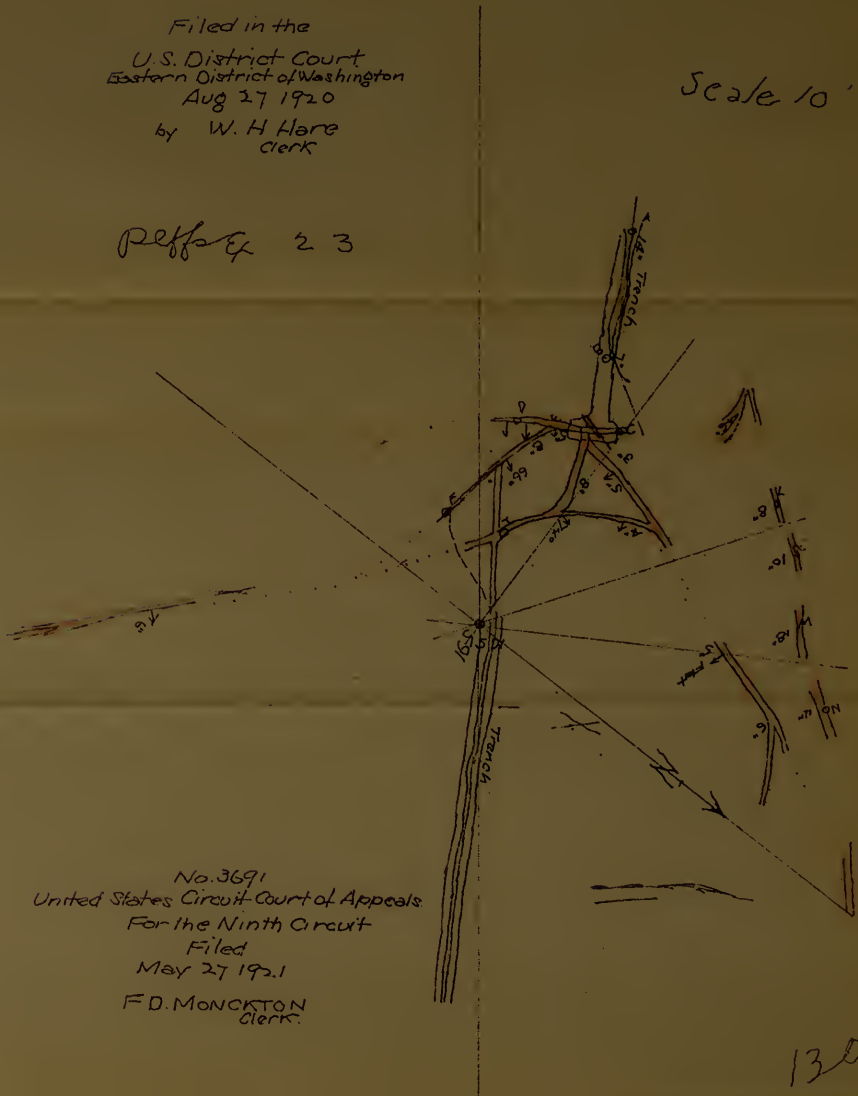
REPUBLIC MINES DEPARTMENT

REPUBLIC, WASH.

Filed in the
U.S. District Court
Eastern District of Washington
Aug 27 1920
by W. H. Hare
clerk

Scale 10'

Ref Ex 23



Plaintiff's Exhibit No. 24.

(No. 12934)

PATENT.

General Land Office,
No. 30698.

Mineral Certificate.
No. 9 (Colville Series).

THE UNITED STATES OF AMERICA,
TO ALL TO WHOM THESE PRESENTS
SHALL COME, GREETING:

WHEREAS, In pursuance of the provisions of the Revised Statutes of the United States, Chapter Six, Title Thirty-two, and legislation supplemental thereto, there have been deposited in the General Land Office of the United States the Plat and Field Notes of survey and the Certificate No. 9 Colville Series, of the Register of the Land Office at Spokane Falls in the State of Washington accompanied by other evidence whereby it appears that James Clark did, on the eighth day of February A. D. 1898, duly enter and pay for that certain mining claim or premises, known as the Lone Pine, Pearl, Surprise and Last Change Lode mining claims, designated by the Surveyor General as Lot No. 363, embracing a portion of the unsurveyed public domain, in the Eureka Mining District, in the County of Stevens and State of Washington in the District of Lands subject to sale at Spokane Falls, and bounded, described, and plat-
ted as follows, with magnetic variations as hereinafter stated.

BEGINNING for the description of the *Lone Pine lode claim* at corner No. 1 a fir post 5 inches square marked 1-4-1-363, with mound of earth and store, from which a fir tree twelve inches in diameter

blazed and marked B. T. 1-4-1-363, bears South sixty degrees west forty-five and three-tenths feet distant; a granite rock six feet square and three feet high chiseled (x) B. R. 1-4-1-363 bears south four degrees and fifty-one minutes west eighty two feet distant; the southwest corner of section thirty-six, township thirty-seven north, of range thirty-two east, Willamette Meridian, bears south fifty-eight degrees, twenty-seven minutes and six second east six thousand four hundred and sixty-three and sixty-five hundredths feet distant discovery cut bears north fifty-one minutes west six hundred and seventy and eight-tenths feet distant, and the portal of a tunnel bears north twenty-eight degrees and twenty-four minutes east four hundred and twenty feet distant.

Thence, first course, magnetic variation twenty-three degrees east, north eighty-one degrees and twenty-three minutes east two hundred and eighty-nine and five-tenths feet intersect line $\frac{3}{4}$ of survey No. 365, the Black Tail lode claim; Five hundred and eighty-five and nine-tenths feet to corner No. 2;

Thence, second course, magnetic variation twenty-one degrees and forty-five minutes east north twenty-five degrees and fifty-five minutes west one thousand four hundred and fifty-five and seven-tenths feet to corner No. 3.

Thence, third course, magnetic variation twenty-two degrees east, south eighty-one degrees and twenty-three minutes west six hundred twenty-six feet to corner No. 4.

Thence, fourth course, magnetic variation twenty-two degrees, and ten minutes east, south twenty-seven

degrees, twenty-four minutes and thirty-nine seconds east one thousand three hundred and ninety-nine and twelve hundredths feet intersect line 3-4 of said survey No. 365, one thousand four hundred and sixty-eight and twelve hundredths feet to corner No. 1, the place of beginning; the survey of the lode as above described extending one thousand four hundred and sixty-eight and twelve hundredths feet in length along said Lone Pine vein or lode.

Beginning for the description of the *Pearl lode claim* at corner No. 1, a pine post four inches square marked 1-363, with mound of earth and stones, from with a cross (X) on rock face chiseled B. R. 1-363 bears south twenty-four minutes west five and two-tenths feet distant; a cross (X) on rock face chiseled B. R. 1-363 bears north fourteen degrees and fifty-eight minutes east seventeen feet distant; said Section corner bears south fifty-two degrees, forty-five minutes and thirty-six seconds east seven thousand seven hundred and eighty-four and eighty-two hundredths feet distant; corner No. 4 of said Lone Pine lode claims bears south twenty-seven degrees, twenty-four minutes and thirty-nine seconds east twenty-nine and two hundredth feet distant, and discovery cut bears south twenty-four degrees east one thousand two hundred and twenty-seven and two-tenths feet distant.

Thence, first course, magnetic variation twenty-two degrees and ten minutes east, south sixty degrees and nineteen minutes west four hundred and ninety-two and six-tenths feet to corner No. 2.

Thence, second course, magnetic variation twenty-

two degrees east south thirty-three degrees, two minutes and fifty-one seconds east one thousand four hundred and ninety-eight and fifty-four hundredths feet to corner No. 3.

Thence, third course, magnetic variation twenty-two degrees east, north sixty degrees and nineteen minutes east two hundred and forty-two and five-tenths feet intersect line 2-3 of said survey No. 365, at south nineteen degrees thirteen minutes and fifty-six seconds east one hundred and twenty-four and fifty-seven hundredths feet from corner No. 3, three hundred and forty-five and three-tenths feet to corner No. 4, identical with corner No. 1 of said Lone Pine lode claim.

Thence, fourth course, magnetic variation twenty-three degrees east, north twenty-seven degrees, twenty-four minutes and thirty-nine seconds west sixty-nine feet intersect line 3-4 of said survey No. 365 at south eighty-six degrees, and forty-seven minutes east ninety-eight and seventy-seven hundredths feet from corner No. 3, one thousand four hundred and sixty-eight and twelve hundredths feet to corner No. 4, of said Lone Pine lode claim; one thousand four hundred and ninety-seven and fourteen hundredths feet to corner No. 1, the place of beginning; the survey of the lode as above described extending one thousand four hundred and ninety-nine and eighteen hundredths feet in length along said Pearl vein or lode.

Beginning for the description of the *Surprise lode claim* at corner No. 1, identical with corner No. 1 of said Lone Pine and corner No. 4 of said Pearl lode

claims, from which discovery cut bears south five degrees and thirty-one minutes east seven hundred and sixty-six and nine-tenths feet distant.

Thence, first course, magnetic variation twenty-three degrees east, south sixty degrees and nineteen minutes west one hundred and two and eight-tenths feet intersect line 2-3 of said survey No. 365, at north nineteen degrees, thirteen minutes and fifty-six seconds west seven hundred and seventy-eight and fifty-nine hundredths feet from corner No. 2, three hundred and forty-five and three-tenths feet to corner No. 3 of said Pearl lode claim; three hundred and sixty-seven feet to corner No. 2.

Thence, second course, magnetic variation twenty-one degrees and forty-five minutes east, south twelve degrees, eleven minutes and thirty-nine seconds east one thousand five hundred and twenty and sixty-eight hundredths feet to corner No. 3.

Thence, third course, magnetic variation twenty-two degrees east, north sixty degrees and nineteen minutes east five hundred and twenty-one feet to corner No. 4.

Thence, fourth course, magnetic variation twenty-four degrees east, north seventeen degrees and fifty-three minutes west six hundred and fifty and fifty-four hundredths feet intersect line 1-2 of said survey No. 365, at south eighty-six degrees and forty-seven minutes east eighty-eight and twenty-one hundredths feet from corner No. 2, one thousand four hundred and eighty-one and seven-tenths feet to corner No. 1, the place of beginning; the survey of the lode as

above described extending one thousand four hundred and ninety-nine and six-tenths feet in length along said Surprise vein or lode.

Beginning for the description of the *Last Chance lode claim* at corner No. 1, a pine post four inches square marked 1-363, with mound of earth, from which a cross (X) chiseled on a rock two feet square, two feet above ground also chiseled B. R. 1-363 bears north seventy-nine degrees and fifty-one minutes east seventy-three and nine-tenths feet distant, said section corner bears south fifty-eight degrees, fifty-three minutes and forty-four seconds east five thousand four hundred and ninety-six and sixty-three hundredths feet distant, and discovery cut bears north thirty degrees and fifty minutes west two hundred and two-tenths feet distant.

Thence, first course, magnetic variation twenty-three degrees and ten minutes east, north four degrees, thirty-five minutes and nineteen seconds east two and one-tenth feet intersect line 1-2 of survey No. 374, the *Micawber lode claim*, at south seventy-seven degrees and fifty-eight minutes east two-tenths of a foot from corner No. 2, one thousand three hundred and seventy-nine and twenty-three hundredths feet to corner No. 2.

Thence, second course, magnetic variation twenty-three degrees east, north sixty-two degrees and nineteen minutes west one hundred and fifty and thirty-one hundredths feet intersect line 2-3 of said survey No. 374, at north fifty-four minutes west one thousand four hundred and forty-two and seventy-one

hundredths feet from corner No. 2; six hundred and sixty-five feet to corner No. 3;

Thence, third course, magnetic variation twenty-two degrees and forty-five minutes east, south eleven degrees and thirteen minutes east nine hundred and seven and sixty-four hundredths feet intersect line 2-3 of said Lone Pine lode claim, one thousand six-hundred and thirty and two-tenths feet to corner No. 4.

Thence, fourth course, magnetic variation twenty-four degrees and forty-five minutes east, south sixty-two degrees and nineteen minutes east one hundred and eighty-two and thirty-one hundredths feet to corner No. 1, the place of beginning; the survey of the lode as above described extending one thousand four hundred and sixty-seven and seven-tenths feet in length along said Last Chance vein or lode. *Expressly excepting and excluding* from these presents all that portion of the ground hereinbefore described embraced in said mining claim or survey No. 374 and that portion of said *surevy* No. 365 in conflict with said Lone Pine claim and also all veins, lodes and ledges throughout their entire depth, the tops or apexes of which lie inside of such excluded ground, the granted premises in said lot No. 363 containing fifty-eight acres and three hundred and forty-five thousandths of an acre of land, more or less.

NOW KNOW YE, That there is therefore hereby granted by the UNITED STATES unto the said James Clark and to his heirs and assigns the said mining premises hereinbefore described, and not expressly excepted from these presents, and all that

portion of the said Lone Pine, Pearl, Surprise and Last Chance veins, lodes or ledges and of all other veins, lodes and ledges throughout their entire depth, the tops, or apexes of which lie inside of the surface boundary lines of said granted premises in said lot No. 363, extended downward vertically although such veins, lodes or ledges in their downward course may so far depart from a perpendicular as to extend outside the vertical side-lines of said premises.

PROVIDED, That the right of possession to such outside parts of said vein, lode or ledge shall be confined to such portion thereof as lie between vertical planes drawn downward through the end-lines of said Lot No. 363, so continued in their own direction that such planes will intersect such exterior parts of said vein, lodes or ledges;

AND PROVIDED FURTHER, That nothing herein continued shall authorize the grantee herein to enter upon the SURFACE of a claim owned or possessed by another.

TO HAVE AND TO HOLD, said mining premises, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging unto the said grantee above named and to his heirs and assigns forever; subject nevertheless to the above mentioned and to the following conditions and stipulations:

FIRST: That the premises hereby granted, *with the exception of the surface*, may be entered by the proprietor of any other vein, lode or ledge, the top or apex of which lies out-side of the boundary of said

granted premises, should the same in its dip be found to penetrate, intersect, or extend into said premises, for the purpose of extracting and removing the ore from such other vein, lode or ledge.

SECOND: That the premises hereby granted shall be held subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local laws, customs, and decisions of the courts.

And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

THIRD: That in the absence of necessary legislation by Congress, the Legislature of Washington may provide rules for working the mining claim or premise hereby granted, involving easements, drainage, and other necessary means to its complete development.

IN TESTIMONY WHEREOF, I, WILLIAM McKINLEY, President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

GIVEN under my hand at the City of Washington the second day of March in the year of our Lord one thousand eight hundred and ninety-nine and of the Independence of the United States the One hundred and twenty-third.

By the President: WILLIAM McKINLEY
(Seal United States Land Office) By T. M. McKEAN
Secretary.

C. H. BRUSH,

Recorder of the General Land Office.

Recorded Vol. 312, pages 153 to 160 inclusive.

Filed for record on the 6th day of January A. D.
1903, at 10.05 P. M. at the request of C. P. Robbins,
and recorded Jan. 7th, 1903.

A. S. SOULE,
County Auditor.

By Thos. F. Barrett,
Deputy.

State of Washington,
County of Ferry,—ss.

CERTIFICATE OF TRANSCRIPT.

I, A. C. MacNulty Auditor of said County, do hereby certify that the foregoing is a true and correct copy of Patent to Lone Pine, Surprise, Pearl and Last Chance Lode Mining Claims as the same appears of record on page 109 record of Patents volume number One, of the records of said County.

WITNESS my hand and official seal, this 21st day of April A. D. 1919.

A. C. MACNULTY,
County Auditor.

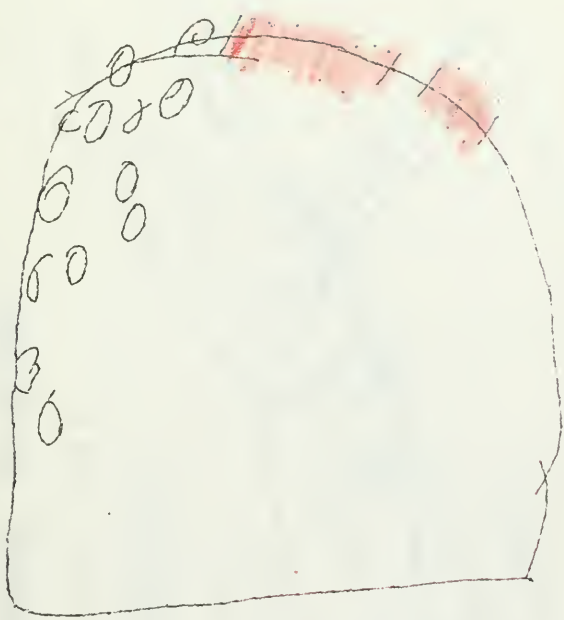
By _____, Deputy.

[Endorsed]: No. 3691. United States Circuit Court of Appeals for the Ninth Circuit. Filed May 27, 1921. F. D. Monckton, Clerk.

Filed in the U. S. District Court, Eastern District of Washington. Aug. 27, 1920. W. H. Hare, Clerk.

Pl 31

Filed in the
U.S. District Court
Eastern District of Washington
Aug 27. 1920.
by W. H. Hare
Clerk.

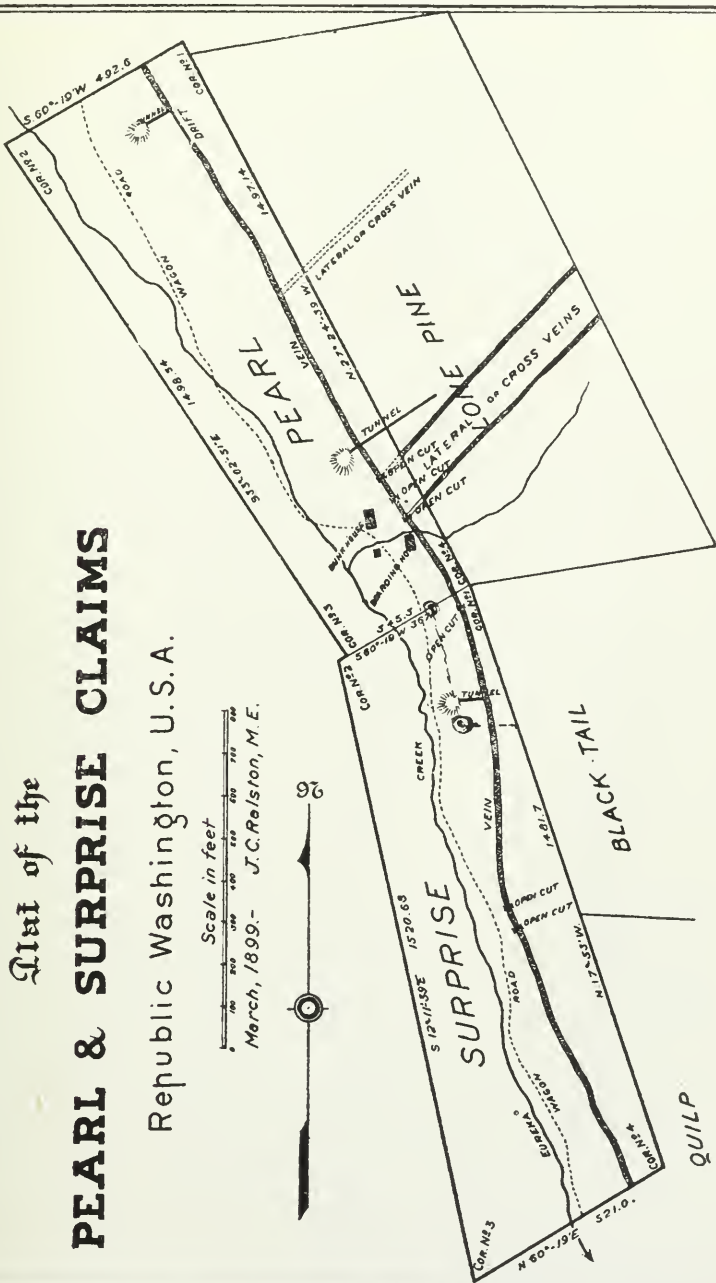


No. 3691
United States Circuit Court of Appeals
For the Ninth Circuit
Filed
May 27 1921
F. D. MONCKTON
Clerk.

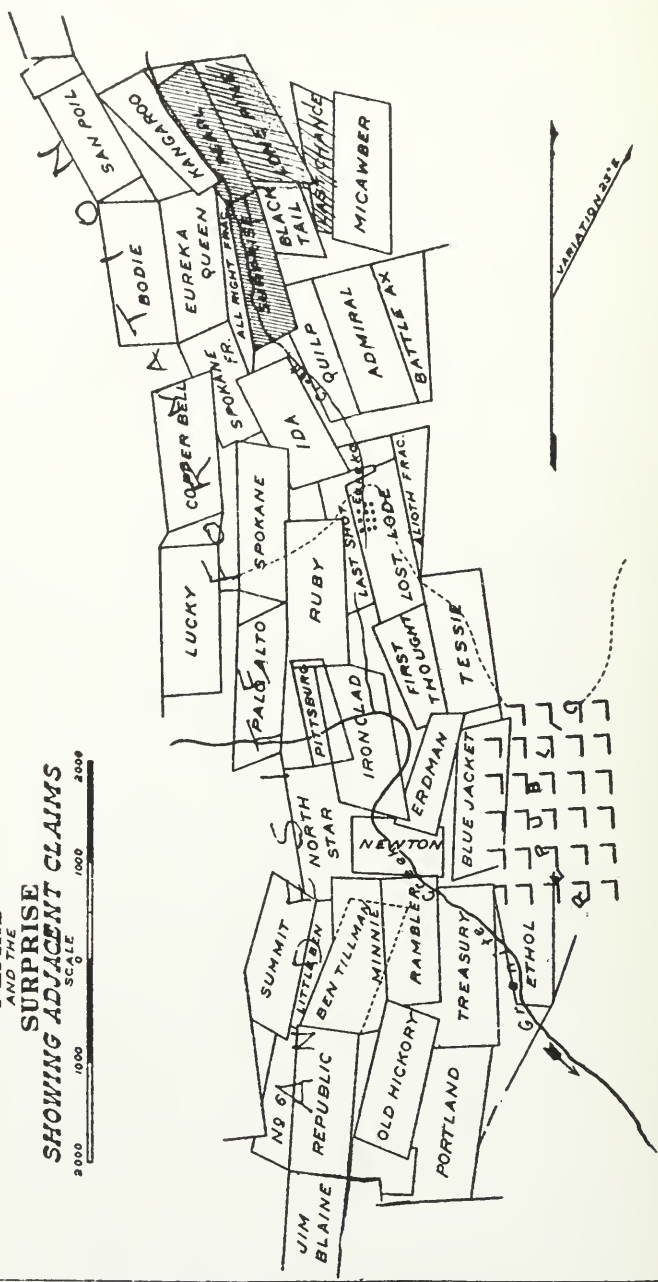
140



Defendant's Exhibit No. 14.



Plat of the
PEARL
AND THE
SURPRISE
SHOWING ADJACENT CLAIMS
SCALE
2000 1000 2000



[Endorsed]: Filed in the U. S. District Court,
Eastern District of Washington. Aug. 27, 1920.
W. H. Hare, Clerk.

No. 3691. United States Circuit Court of Appeals
for the Ninth Circuit. Filed May 27, 1921. F. D.
Monckton, Clerk.

Defendant's Exhibit No. 15.**COPY OF J. C. RALSTON'S REPORT ON THE
LONE PINE SURPRISE CONSOLIDATED
GROUP OF MINES AT REPUBLIC.**

At your request I submit the following brief report on the Lone Pine-Surprise Con. Mines in Republic, Washington. I purposely omit a good deal of extraneous matter, as to the accessibility etc., knowing that you are familiar with the ground. A map and eight sheets of sections accompany and illustrate this report.

This group consists of the Last Chance, Lone Pine, Pearl and Surprise, all contiguous, patented claims, lying on the east side of a gentle gulch in the heart of Republic Camp. Elevation about 2800 feet. They are situated within but near the east boundary of the porphyry zone in which the ore bearing fissures of Republic are found.

VEIN CHARACTERS.

There is a regular gangalia of veins included within the group. The enclosing walls are porphyry. The veins vary in width from 3 to 18 feet, dipping to the east and south from 75% to 90%. The Pearl-Surprise vein which outcrops for 3000 feet has a serpentine strike of about north 18% west, while the laterals or cross veins of the Lone Pine, all about parallel, strike north east, with intermittent outcrops. The vein filling is chalcedonic quartz, sometimes contaminated with andesetic breccia and inclusions of the country rock. Analyses reveal an extremely silicious quartz, 91 to 94% silicate the balance made up of small per centages of iron, soda, aluminum and the

precious metals. The veins thus far are usually exempt from disordering influences of cross courses or faults. The values are wholly in gold and silver which are very largely in the metallic state, microscopically impregnating the quartz.

DEVELOPMENT.

On the Last Chance;—

Beyond some surface cuts along the outcrop of the Last Chance vein there has been no work done on this claim to develop the vein upon which this claim is located. The vein outcrops more or less continuously for a distance of about 425 feet. The value from the cuts run from about \$1. to \$3. The drift from the Lone Pine on #2 lateral has been run into Last Chance ground, following the vein and in the vicinity of the side-line cross-cutting contaminated vein matter for 100 feet without exposing the hanging or south wall. This lateral, no doubt continues diagonally across the Last Chance. There are about 128 linear feet underground workings on this claim. On the Lone Pine the greatest amount of development has been done. An adit tunnel has been run northerly from near the south end of the Lone Pine. This tunnel cuts latteral vein #1.9 feet wide, 20 feet from the portal, with an average value of about \$5. per ton. Eighty feet further in lateral #2 was cut, showing a width of 16 feet of clean quartz averaging in value \$20. per ton. At a distance of 190 feet further Latteral #3, was cut revealing a width of 3 feet and values of about \$7. per ton, while at a point 460 feet from the portal of the tunnel cross-vein #4 was

cut, disclosing a width of six feet between walls, running in value from \$18 to \$33.

At a point on the Pearl vein, 360 feet north of the boarding house another adit tunnel was started, cross-cutting the pearl vein and is now in 236 feet. This tunnel Adit #2 is being run to cut latteral #4 at a depth of 80 feet below Adit #1.

No work has been done on latteral #1. altho' this vein shows 9 feet wide where it was cut by Adit #1. It assays \$4. at that point and at a point 100 feet westerly its outcrop assays \$6.

Latteral #2, shows the largest body of ore yet opened. From the turn sheet at the intersection of Adit #1, and this latteral, a drift 100 feet long has been run in ore all that distance, which averages \$8, per ton, and 12 feet wide under a height of 105 feet. The breast is 12 feet wide all in ore. Easterly from the turn sheet a drift has been run 365 feet passing out the Lone Pine side-line, through the "V" Fraction (Not owned by the Company) and on into the Last Chance. The first 225 feet of this easterly drift a splendid body of \$20, ore has been opened, 12 feet wide and 105 feet below the surface. This lateral, like its parallel associates has a slight dip southerly. Half way between the turn-sheet and the east side-line, a winze has been sunk thus far 30 feet deep in which this #20, ore shoot continues with slightly increasing values with depth. A drift easterly has been run on lateral #3, 115 feet, disclosing 3 feet of \$7, ore. This body of ore has not however been included in the calculations of the ore in sight. In fact all ore-shoots of less than \$8, value have not

been considered in this report. Another splendid ore body has been opened in #4 lateral. From the intersection with this vein a drift has been run easterly 150 feet. The first 100 feet passing through ore averaging 4 feet wide and \$33, per ton, under a depth of 170 feet: while in the west drift the first 30 feet average \$18, sixty feet beyond the \$18, ore, another shoot of \$12 ore has been cut. This shoot has been penetrated 10 feet to date with 4 feet of \$12 ore in workings on the Lone Pine.

ON PEARL

At the south of this claim near the boarding-house a shaft 44 feet has been sunk in the vein. Here the values are low averaging \$ per ton. A number of surface cuts have been made, as shown on plan, exposing the Pearl vein. Their values however are low. At the north end a cross-cut 80 feet long has been run, which cuts the vein 11 feet wide and 70 feet deep. From this a drift was run 20 feet north and 80 feet south. This shoot has been estimated at 11 feet wide 100 feet long and 70 feet deep. Some assays taken close to the north end-line from the croppings gave \$45, per ton in gold and silver. There are 234 feet workings underground on the Pearl.

ON SURPRISE

At the south end of this claim a cross-cut tunnel was run which cut the vein 4 feet wide at a depth of 100 feet. A drift was run north on the vein for 160 feet, and passed through a shoot of ore 3 feet

wide and 70 feet long, under a depth of 100 feet, which assays \$30, per ton. Almost over the north end of this drift a shaft has been sunk 45 ft. deep, with a drift from its sole 30 ft. north. This working is in a \$40, shoot of ore 5 ft. wide. The south side of this shaft near the bottom reveals the shoot dipping to the north, as shown in sections.

About the centre of the claim another cross-cut tunnel, starting at the wagon road was driven 165 ft. where it cuts the vein, whence drifts were driven north 160 ft. and south 263 ft.

The north drift encountered a shoot of ore 3 ft. wide by 100 ft. long, and the south drift a shoot 3 ft. wide by 130 ft. long—the former yields an average of \$10, per ton, and the latter \$30, per ton. At a point in the south drift 100 ft. from the turn-sheet a raise has been made to a short tunnel (see section B-B) The total workings on the Surprise aggregate 1105 feet.

AGGREGATE WORKINGS.

ON LAST CHANCE.....	128 ft.
ON LONE PINE.....	1813 ft.
ON PEARL.....	234 ft.
ON SURPRISE.....	1105 ft.

3270 Ft. Total to Date.

ORE IN SIGHT.

In calculating the ore reserves no ore has been estimated below present workings nor are the horizontal limits of shoots assumed to extend beyond present faces, where the limits are not already known.

That all the shoots have reasonable vertical depths is moderately assumed, and such as are undertermined horizontally may be assumed to have some additional length. These assumptions however do not enter into the calculations. The experience in the camp justifies such assumption.

ON LONE PINE

The lateral #2, see section ("D-D") 12x130 Ft. x 225 Ft. equals 27000 Tons at \$20, per ton equals \$540000.00. In lateral #3.

12x100x105 Ft. Equals 9692.307 Tons at \$8, per ton equals \$77,538.46. In lateral #4.

4x100x170 Equals 5270.769 Tons at \$33

equals	172615.38
--------	-----------

4x30x170 " " 1569.23 " " \$18 " "	28246.14
-----------------------------------	----------

4x10x170 " " 523.076 " \$12 " "	6276.912
---------------------------------	----------

Total gross value Lone Pine. \$824676.89. On Pearl 11x70x100, equals 5923.076 Tons at \$8, equals \$47384.60.

On Surprise At south end. 3x70x100 equals 1615.38 tons at \$30, per ton Equals \$48461.52

5x30x45 " " 519.23 " " at \$40. " "	20769.20
-------------------------------------	----------

South Centre shoot;

3x40x130, equals 2100 tons at \$30, per ton

equals	\$63000.
--------	----------

North Centre shoot;

3x70x100 equals 1615.38 tons at \$10, per

ton equals	\$16153.90
------------	------------

Total Gross value of Surprise \$148348.62.

Grand total gross \$1020446.12.

It is calculated in the light of experience in this camp, that these ores can be treated at a cost of \$3, per ton and with mining at \$2, per a total of \$5.00 per ton. The gross tonnage is 55788 at \$5, equals \$278940, this from the gross value \$1020446.46 leaves a net value for the ore in sight of \$741506.00.

TREATMENT.

The ores of this mine are susceptible of economical treatment by the modified cyanide process, as already in camp on a large scale at a cost of \$2.50 per ton.

FUTURE DEVELOPMENT.

The general conditions prevailing on this group are such as to render future development very economical. A three compartment shaft sunk say at a depth of 400 ft. near the portal of #1. Adit makes it.

[Endorsed]: Copy Ralston's Report. Lone Pine-Surprise Mines. Filed in the U. S. District Court, Eastern District of Washington. Aug. 27, 1920. W. H. Hare, Clerk.

No. 3691. United States Circuit Court of Appeals for the Ninth Circuit. Filed May 27, 1921. F. D. Monckton, Clerk.

Defendant's Exhibit No. 32.

THE C. M. FASSETT CO.

ASSAY OFFICE AND ORE TESTING WORKS.

207-209-211-213 Wall St.

Memorandum of Assay Made for

Arthur Lakes, Jr.

Spokane, Washington, Aug. 24, 1920.

Sample Mark.	Assay Value Per Ton of 2,000 Pounds Avoirdupois.		Total.	
	Copper at . . cts. per lb.	Silver at 100 cts. per oz.	Gold at \$20.67 + per oz.	Dollars. Cts.
750 A.	Per Cent. Dollars Cts.	Ounces. 10ths Dollars. Cts.	Ounces. 100ths. Dollars. Cts.	Dollars. Cts.
No. 78290		9 7	9 70	11 57
Charges, \$1.50			— 56	21 27
	{ All samples saved for one year. Pulps can be had }		THE C. M. FASSETT CO.	
	{ from these samples for check assays, at any time. }		K	

[Endorsed]: Filed in the U. S. District Court,
Eastern District of Washington. Aug. 27, 1920.
W. H. Hare, Clerk.

No. 3691. United States Circuit Court of Appeals
for the Ninth Circuit. Filed May 27, 1921. F. D.
Monckton, Clerk.

Defendant's Exhibit No. 33.

C. M. TREVITT, Assayer

Certificate of Assay.

Samples of Last Chance Mine.

Republic, Wash., Aug. 21, 1920.

No.	Description.	Oz.	Gold		Oz.	Silver		Total Value
			10ths	Value		10ths	Value	
786A		06	1	20		5	50	1 70
787A		04		80		5	50	1 30
788A		04		80		4	40	1 20
789A		06	1	20		5	50	1 70

C. M. TREVITT, Assayer.

C. M. TREVITT, Assayer

Certificate of Assay.

Samples of Last Chance Mine.

Republic, Wash., Aug. 21, 1920.

No.	Description.	Oz.	Gold \$20.00		Oz.	Silver \$1.00		Total Value
			10ths	Value		10ths	Value	
778A		16	3	20		7	70	3 90
779A		16	3	20	1		1 00	4 20
780A		17	3	40		9	90	4 30
781A		12	2	40		9	90	3 30
782A		33	6	60		9	90	7 50
783A		10	2	00		5	50	2 50
784A		20	4	00		6	60	4 60
785A		08	1	60		5	50	2 10

C. M. TREVITT, Assayer.

[Endorsed]: Filed in the U. S. District Court, Eastern District of Washington. Aug. 27, 1920. W. H. Hare, Clerk.

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